

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

Before Commissioners: Shari Feist Albrecht, Chair
 Thomas E. Wright
 Jay Scott Emler

In the Matter of the Application of Westar)
Energy, Inc. and Kansas Gas and Electric)
Company for Approval of Revisions to) Docket No. 14-WSEE-148-TAR
Their General Terms and Conditions to)
Implement an Optional Prepay Service Pilot)
Program.)

**ORDER DENYING CURB'S MOTION TO DISMISS
AND DIRECTING THE PARTIES TO DEVELOP A PROCEDURAL SCHEDULE FOR
THE FILING OF TESTIMONY**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having reviewed the pleadings and record, the Commission finds and concludes as follows:

1. On October 1, 2013, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an application with the Commission for approval of proposed revisions to the general terms and conditions of their tariff in order to implement an optional prepay service pilot program.¹

2. On January 6, 2014, the Citizens' Utility Ratepayer Board (CURB) filed a Motion to Dismiss Application.² CURB asserted Westar's Application was not supported by any testimony to explain the proposed pilot program, and thus failed to make a prima facie showing that the proposed program is reasonable and in the public interest. CURB stated Westar had verbally agreed to provide testimony supporting its application in a meeting between the parties

¹ Application, ¶ 2.

² Motion to Dismiss Application, (January 6, 2014).

on December 22, 2013, but had subsequently backed out on that agreement. CURB also identified a list of numerous unanswered questions regarding Westar's application.

3. On January 8, 2014, Commission Staff (Staff) filed its Response to CURB's Motion to Dismiss Application.³ Staff agreed with CURB's assertion that the application contained several deficiencies, and stated it does not oppose CURB's Motion and would support dismissal with instructions to Westar to refile and include testimony more fully explaining the proposed pilot program.

4. On January 16, 2014, Westar filed a Response to CURB's Motion to Dismiss.⁴ Westar argued the Commission has wide discretion to determine what information is required and what process will be used to evaluate any given application, based on the specific facts and circumstances involved. Westar also stated it had answered many of the questions CURB raised in its Motion to Dismiss in discovery requests. Westar argued it provided sufficient information in its application and proposed tariff, as well as during the discovery process, to allow Staff to file a report and recommendation on which the Commission can base its decision.

5. CURB filed a Reply to Westar's Response on January 27, 2014.⁵ CURB responded to Westar's arguments, disputing that questions regarding the proposed pilot program were answered through discovery and reasserting Westar failed to provide substantial competent evidence demonstrating its proposed pilot program is reasonable and in the public interest.

6. The Commission finds it would be an unnecessary waste of the parties' time and resources to order dismissal of this case with directions to re-file. CURB and Staff assert Westar's application lacks testimony supporting and explaining the proposed pilot program. The

³ Response to CURB's Motion to Dismiss Application, (January 8, 2014).

⁴ Response of Westar Energy, Inc. and Kansas Gas and Electric Company to Motion to Dismiss, (January 16, 2014).

⁵ Reply to Response of Westar Energy, Inc. and Kansas Gas and Electric Company to Motion to Dismiss Application, (January 27, 2014).

Commission finds a suitable solution would be to require all parties to file testimony in support of their positions, with directions to Staff to file a Report and Recommendation after all testimony has been filed. The Commission agrees with Westar that a full evidentiary hearing in this case is unnecessary, but finds testimony, a Staff Report and Recommendation, and any responses to the Report and Recommendation from the parties would provide a sufficient record upon which the Commission could make a decision. Accordingly, the Commission directs the parties to develop a modified procedural schedule to allow for filing of testimony, a Staff Report and Recommendation, and any responses thereto. The parties shall submit such a procedural schedule to the Prehearing Officer, Jay Van Blaricum, within ten days of the date of this Order.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. The Commission denies CURB's Motion to Dismiss Application.
- B. The Commission directs the parties to develop a modified procedural schedule to allow for filing of testimony and the filing of a Staff Report and Recommendation. Such schedule shall be submitted to the Prehearing Officer within 10 days of the date of this Order.
- C. The parties have 15 days from the date this Order was electronically served to petition the Commission for reconsideration.⁶
- D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

⁶ K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Wright, Commissioner; Emler, Commissioner

Dated: MAR 06 2014



ORDER MAILED MAR 06 2014

Kim Christiansen
Executive Director

JV

MAR 06 2014

CERTIFICATE OF SERVICE

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I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Denying CURB's Motion to Dismiss and Directing the Parties to Develop a Procedural Schedule for the Filing of Testimony was served by electronic mail this 6th day of March, 2014, to the following parties who have waived receipt of follow-up copies:

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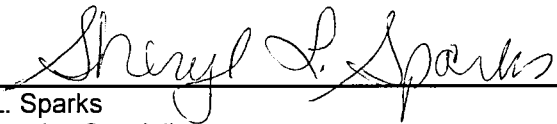
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A handwritten signature in cursive script that reads "Sheryl L. Sparks". The signature is written in black ink and is positioned above a horizontal line.

Sheryl L. Sparks
Administrative Specialist

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