

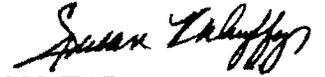
**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

STATE CORPORATION COMMISSION

SEP 20 2010

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company (both)
doing business as Westar Energy) Filing)
Tariff Revisions Seeking Approval for an)
Energy Efficiency Rider Pursuant to the)
Commission's Order Dated November 18,)
2008 in Docket No. 08-GIMX-441-GIE.)

Docket No. 11-WSEE-032-TAR



CURB's Response to Westar's Application and Staff's Memorandum

The Citizens' Utility Ratepayer Board (CURB) submits its comments below on Westar Energy's Energy Efficiency Cost Recovery Rider ("EER") application, and the Staff of the Kansas Corporation Commission's Memorandum which was filed in the above-captioned docket on September 8, 2010.

On July 16, 2010, Westar Energy, Inc. and Kansas Gas and Electric Company (collectively referred to as "Westar" or "company") filed an application seeking Commission approval of an Energy Efficiency Rider. This rider would permit Westar to recover \$5,832,635.06 in costs associated with Westar's various energy-efficiency programs. In addition, Westar requested to cancel the Fuel Proration Rider for both Westar Energy, Inc., and Kansas Gas and Electric Company, which were approved in Docket No. 09-WSEE-925-RTS for the months of February and March 2010.

Westar's application provided a breakdown of expenses incurred by the utility for each of its four energy-efficiency programs. These expenses are as follows:

Program	Docket No.	2009 YTD	2010 (through 06/30/10)	Total
WattSaver	09-WSEE-636-TAR	942,661.13	2,556,095.82	3,498,756.95
Building Operator Certification	09-WSEE-738-MIS	37,619.74	35,202.27	72,822.01
Education Programs	09-WSEE-986-ACT	120,802.11	56,641.00	177,443.11
Energy Efficiency Demand Response Rider	10-WSEE-141-TAR	0	2,083,612.99	2,083,612.99
			Total EER expenses:	<u>5,832,635.06</u>

On September 8, 2010, the Kansas Corporation Commission Staff (“Staff”) filed its Memorandum, recommending the Commission approve Westar’s EER, as revised by Staff, in the amount of \$5,830,491.17. Staff’s audit found \$2,142.89 in rebates given to Westar employees to encourage the purchase of Compact Fluorescent Light bulbs (“CFLs”) through the Save a Watt, Save a Lot program.¹ Staff views these expenses as inconsistent with Commission directions given in Docket No. 08-GIMX-442-GIV (“442 Docket”), and subsequently removed these expenses from Westar’s requested EER amount.

Staff’s Memorandum recognizes that EERs should be implemented in a manner that “... maintains the Commission’s responsibility to review costs for prudence.”² However, Staff later indicates that “since all program(s) have been approved by the Commission, Staff limits its review to whether program costs intended to be recovered are consistent with utility program applications.”³

CURB finds this distinction troubling. Staff seemingly recognizes that its review of Westar’s EER is purely a review of the numbers – a simple check of whether Westar is capable of adding numbers correctly, without any review of the prudence of these expenditures. At this time, CURB does not dispute the accuracy of Staff’s audit finding

¹ KCC Docket No. 11-WSEE-032-TAR, September 8, 2010, *Staff Memorandum*

² KCC Docket No. 08-GIMX-441-GIV, November 14, 2008, *Final Order*, at ¶32.

³ KCC Docket No. 11-WSEE-032-TAR, September 8, 2010, *Staff Memorandum*

that \$5,830,491.17 in expenses have been incurred by Westar for its Commission-approved demand response and energy-efficiency programs. However, CURB is highly concerned that Staff's audit of nearly six million dollars in expenses is merely an accounting function – only adding up the dollars expended and then passing those expenses onto ratepayers, without any type of prudence review or assessment of whether expenses benefited ratepayers.

In an effort to determine whether these expensive programs are providing benefits, during the discovery period for this docket, CURB issued data requests to Westar requesting the company provide an estimate of savings achieved and an estimate of avoided costs associated with two of the company's Commission-approved energy-efficiency programs: WattSaver and Energy Efficiency Demand Response Rider. These data requests and the company's responses are attached to this filing as Appendix A and Appendix B. CURB paid special attention to the WattSaver and Energy Efficiency Demand Response Rider because these two programs account for over 95% of the expenses reflected in the company's proposed EER. Additionally, because energy savings achieved from the company's two demand response programs are essentially controlled by the company – the company controls when and how many cycling events take place – CURB believes that these programs should command the Commission's full scrutiny.

WattSaver:

In the Company's response to CURB Data Request 1, Westar explained that as of August 22, 2010, there are 11,280 customers participating in the WattSaver program. In addition, the company disclosed that there have been five cycling events in 2010: June 17, July 14, July 19, July 22 and July 23. Westar estimated that customers participating in

the WattSaver program cumulatively saved approximately \$12,800 for each cycling event. However, Westar did not provide any calculations or evidence supporting these estimates. In addition, Westar was not able to provide an estimate of avoided costs associated with the cycling events in 2010. Instead, Westar simply estimates that additional avoided costs or savings are in the range of \$400,000 - \$500,000 dollars.

CURB is concerned that Westar provides no evidence in its application or in discovery supporting its estimates of avoided energy or capacity. It is unclear whether the WattSaver program's performance is meeting the expectations or assumptions that were made in the docket approving the WattSaver program, Docket No. 09-WSEE-636-TAR. With minimal evidence provided by Westar, the Company is asking the Commission to approve nearly \$3.5 million in expenses for a program that may have saved only \$500,000.

CURB is not as yet recommending the Commission disallow the recovery of expenses associated with the WattSaver program. Rather, CURB recommends that the Commission further review the WattSaver program's performance to better evaluate the cost-effectiveness of the program and whether any of the fundamental economics of the program (e.g., natural gas prices) have changed since the Commission approved the program.

Energy Efficiency Demand Response Program:

According to the Energy Efficiency Demand Response Rider tariff, participants in this program receive a monthly capacity credit that is calculated by providing \$4 for each kW of the participant's interruptible capacity. If a curtailment event is called, the

participants will be paid an event payment of between \$75 - \$150 per MWh for each MWh of load the participant sheds during the curtailment period.

In its response to CURB Data Request 3, the company provided information about its Energy Efficiency Demand Response Rider program. Westar indicates that there is only one customer currently participating in the Energy Efficiency Demand Response Rider and no curtailment events were called prior to June 30, 2010 – meaning no event payments are included in the filed EER. However, despite not having a single curtailment event before June 30, 2010, the sole customer participating in the Energy Efficiency Demand Response Rider program was given bill credits totaling \$2,082,580. The Commission must recognize that Westar is currently requesting recovery of \$2,082,580 in capacity credits given to one participating customer during a six-month period from January – June 2010. The amount requested for recovery for the Energy Efficiency Demand Response Rider program will likely be double what it is now when Westar files its EER in July 2011, as it will span a full twelve month period.

In its data request response, Westar also revealed that the single participant in the Energy Efficiency Demand Response Rider program has been subject to three curtailment events during 2010 – July 6, July 22, and July 23 – for which they were paid \$94,072.73 to curtail 1,254.303 MWhs. Because each of these cycling events took place in July 2010, the event payments of \$94,072.73 are not included in the proposed EER. However, the \$94,072.73 paid to this customer is **in addition to** the capacity credits of \$2,082,580. CURB is very concerned that a single Westar customer has been given a total of \$2,176,652.73 in a six month period to reduce load by 1,254.303 MWhs – the equivalent of \$1,735.35 per MWh.

Before the Commission approves the recovery of \$2,082,580 from customers – which is 36% of the company’s EER – Westar should be required to provide evidence supporting the expenditures. According to its responses to CURB Data Request 3, the three curtailment events called in July 2010, were due to localized transmission conditions and for system peaking conditions and availability of generation capacity related to outages at other generating units. However, Westar doesn’t explain when the cycling events took place, why there were transmission issues that required cycling or why other generation plants were out of service. Westar provides no evidence showing Westar customers as a whole saved more from the three cycling events than it paid to this single customer for curtailing during the three cycling events.

CURB doesn’t dispute the value of having a large customer that can shed load quickly. However, CURB cannot support blindly passing on over \$4 million of annual expense to ratepayers without at least some evidence that the program is having positive benefits for customers as a whole. CURB recognizes that this program is unique in its design, as it targets only a few participants. But, when one single participant can receive over \$4 million every year just for signing up for a program, there should be evidence provided by the company in the record to show that customers as a whole benefited from these payments. Therefore, CURB recommends that the Commission require a more in-depth review of the Energy Efficiency Demand Response Rider Program.

CURB appreciates that the company has not yet been required by the Commission to perform a full EM&V of the WattSaver and Energy Efficiency Demand Response programs. However, given the level of expense for these two programs and the conditions under which the programs operate, it is CURB’s opinion that the Commission should require the company to provide at least some evidence of consumer benefits, before

charging over \$5.8 million of expenses to consumers. In addition, the Commission Staff should be performing, at minimum, an elementary review for prudence in this type of filing, instead of just making sure the numbers provided by the company are supported by work papers and general ledger entries. Further, it is CURB's opinion that the Commission has an on-going obligation to review these types of programs for prudence and cost-effectiveness. As it stands, there is insufficient evidence to support the Company's contention that these expenses were incurred by Westar in the course of providing "reasonably efficient and sufficient service." K.S.A. 66-101b.

Respectfully submitted,



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APPENDIX A

Westar Energy's Response to CURB Data Request 1

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Data Request: CURB-1.01: Wattsaver Program

Please provide the following information relating to the WattSaver program:

- a. How many customers are currently participating in the WattSaver Program?
- b. How many cycling events have been called in 2010?
- c. How many WattSaver participants opted-out of the planned cycling events in 2010?
- d. Please provide an estimate of savings achieved by each cycling event in 2010.
- e. Please provide an estimate of avoided costs associated with WattSaver's cycling events in 2010.
- f. Please breakdown WattSaver expenses by category: start-up costs, thermostats and installation, other vendor costs, and internal administration costs.

Response:

- a. There are 11,280 Westar Energy customers participating in the WattSaver program as of August 22, 2010.
- b. There have been 5 cycling events called in 2010. They occurred on the following dates:
 - 1 June 17,
 - 2 July 14,
 - 3 July 19,
 - 4 July 22, and
 - 5 July 23.
- c. The number of opt outs on the cycling event dates are as follows:
 - 1 June 17 – 14 participants opted out of cycling,
 - 2 July 14 – 10 participants opted out of cycling,
 - 3 July 19 – 12 participants opted out of cycling,
 - 4 July 22 – 20 customers opted out of cycling, and
 - 5 July 23 – 27 customers opted out of cycling.
- d. Westar estimates that customers participating in the WattSaver program saved approximately \$12,800 in energy (kWh) on the cycling days listed in response to item a and b. Westar calculated this amount using the estimated kWh savings developed in the docket approving the WattSaver program - Docket No. 09-WSEE-636-TAR.
- e. Westar has not calculated the avoided costs associated with the WattSaver's cycling events in 2010. However, Westar anticipates that avoided costs or savings include capacity related savings plus energy savings related to reduced fuel expense for non participants in the WattSaver program. These additional avoided costs or savings are estimated to be in the range of \$400,000 to \$500,000. Westar calculated this amount using the anticipated avoided costs or savings developed in the docket approving the WattSaver program - Docket No. 09-WSEE-636-TAR.
- f. The WattSaver expenses requested for recovery in this docket by category are:
 - 1 Start-up costs - \$131,197,
 - 2 Thermostats and installation - \$3,320,899,
 - 3 Other vendor costs - \$136,049,
 - 4 Internal administration costs – incremental - \$30,611.

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Prepared by or Under Supervision of: Carvell, Paula

Verification of Response

I have read the foregoing Data Request and Answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed by: Paula F. Carvell

Dated: 8-31-2010

APPENDIX B

Westar Energy's Response to CURB Data Request 3

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Data Request: CURB-1.03: Various questions

CURB-3. Please provide the following information relating to the Energy Efficiency Demand Response Rider:

- a. How many customers are currently participating in the Energy Efficiency Demand Response Rider Program?
- b. For each customer participating in the Energy Efficiency Demand Response Rider Program, please detail the customer's minimum firm load requirement and the demand response load target for 2010.
- c. How many curtailment events have been called in 2010?
- d. For each curtailment event, please detail (1) the reason for the curtailment event, (2) the amount participants were contracted to curtail during the event, (3) the actual amount that participants curtailed during the event, and (4) the avoided costs of each curtailment event.
- e. How much has Westar paid to participating customers for the monthly capacity incentive credit? Please provide all calculations and workpapers supporting the capacity incentive payment.
- f. How much has Westar paid to participating customers for the monthly event payments? Please provide all calculations and workpapers supporting the monthly event payments.
- g. How many penalties has Westar charged to participating customers that were not able to reduce load during a curtailment period?
- h. Has Westar executed any Voluntary Energy Purchase/Sale Options with customers participating in the Energy Efficiency Demand Response Rider Program? If so, please provide analysis of these events – including the amount of energy curtailed and the negotiated price of the curtailment. Please provide all calculations and workpapers supporting the Voluntary Energy Purchase/Sale agreement.
- i. Please provide an estimate of savings/avoided costs associated with Energy Efficiency Demand Response Rider cycling events in 2010.

Response:

- a. Westar Energy has one customer currently participating in the Energy Efficiency Demand Response Rider program.
- b. The one customer's minimum firm load requirement is 15,000 kW. The demand response load target for the current year is 100 to 150 MW.
- c. There have been three events called to date for the participant under this program.
- d.
 1. The reasons for each event were as follows:
 - a. Event number 1 related to a localized transmission condition on Westar's transmission system.
 - b. Events 2 and 3 related to system peaking conditions and availability of generation capacity related to outages at other generating units.
 2. The participant was instructed to reduce load to its minimum capacity requirement for Events 2 and 3 and reduce load by at least 50 MW for Event 1.
 3. The participant reduced its load from a typical load for the customer to the instructed level of load for each event.
 4. Westar Energy has not performed an EM&V calculation quantifying the actual interruption events for 2010 yet. Avoided costs however, are achieved in at least two forms – capacity and energy. A typical avoided energy cost during the summer months can vary from \$70 to \$150 per MWH or more depending on the conditions present at the time of the event.

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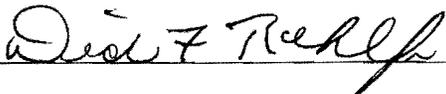
Avoided capacity is achieved from the avoidance of building the next generating unit. Moreover, calling an interruption provides relief if needed through the SPP and may avoid rolling brown outs or black outs.

- e. The monthly capacity credits paid to the participant totaled \$2,082,580 from program inception through June 2010. The calculation is shown on the attached spreadsheet.
- f. Westar paid the participant \$75 per MWH for each MWH of actual reduced load the customer provided. The calculation is shown on the attached spreadsheet.
- g. The participant in this program has complied with all interruption requests; thus Westar Energy has not imposed a penalty on the participant.
- h. Westar Energy has not executed a voluntary Purchase/Sale Option since inception of this program.
- i. See response to question d 4 above.

Prepared by or Under Supervision of: Wilson, Terry

Verification of Response

I have read the foregoing Data Request and Answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed by: 
Dated: 8-31-2010

Energy Efficiency Demand Response incentive payments

	January	February	March	April	May	June	total
Interruptible load by month	71,425	80,014	79,990	95,477	95,477	98,262	
Incentive Credit	4	4	4	4	4	4	
Incentive payment	\$ 285,700	\$ 320,056	\$ 319,960	\$ 381,908	\$ 381,908	\$ 393,048	\$ 2,082,580

Energy Efficiency Demand Response event payments

	Event 1 July 6, 2010	Event 2 July 22, 2010	Event 3 July 23, 2010	Total for July
Reduced MWs by customer	436.561	411.136	406.606	
Event payment	\$ 75	\$ 75	\$ 75	
Event Payment	\$ 32,742.08	\$ 30,835.20	\$ 30,495.45	\$ 94,072.73

CERTIFICATE OF SERVICE

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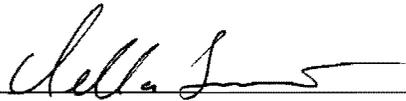
I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, electronic service, or hand-delivered this 20th day of September, 2010, to the following:

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* Denotes those receiving the Confidential version