

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

FEB 09 2012

by
State Corporation Commission
of Kansas

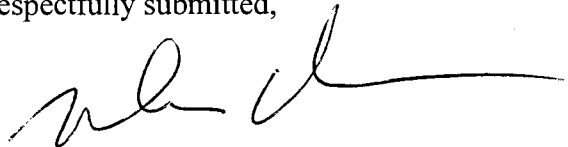
In the Matter of the Joint Application of)
Westar Energy, Inc. and Kansas Gas and) Docket No. 12-WSEE-112-RTS
Electric Company for Approval to Make)
Certain Changes in Their Charges for)
Electric Service.)

CURB's Statement of Interest

Comes Now, the Citizens' Utility Ratepayer Board (CURB), hereby files its Statement of Interest in the above captioned docket.

Wherefore, CURB respectfully submits its Statement of Interest to the Commission for consideration.

Respectfully submitted,



Niki Christopher #19311
David Springe #15619
Citizens' Utility Ratepayer Board
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CURB's Statement of Interest in KCC Docket No. 12-WSEE-112-RTS

1) CURB's specific interest in this docket is that the agency was created and authorized by the legislature to represent the interests of the residential and small commercial customers of the regulated utilities before the Kansas Corporation Commission. K.S.A. 66-1222 *et seq.* CURB thus represents the interests of the majority of Westar Energy's customers in this rate case proceeding. The customers that CURB represents will, if the settlement agreement is approved by the Commission, bear approximately 82% of the rate increase. CURB has an obligation to seek the best possible rates and policy decisions on behalf of those customers.

2) CURB seeks the relief set forth in the prefiled testimony of its witnesses, Andrea Crane and Brian Kalcic. In recognition that some of the relief sought by CURB is embodied in provisions of the S&A, CURB has set forth a list of remaining disputed issues and filed it with the Commission. CURB has also filed testimony in opposition of the settlement that summarizes its main objections to the settlement.

The specific relief that CURB seeks is as follows: that the Commission reject the settlement agreement; that the Commission grant an increase that is smaller than the \$50 million requested in the S&A; that the Commission determine that the return on equity for Westar's shareholders should be below the 10% requested in the S&A; that the Commission require shareholders to bear the costs of executive compensation that are based on financial performance metrics; that the Commission roll back the ECRR into base rates and credit ratepayers with the gain on sale of fuel that they paid for. The page limitation on this statement does not permit CURB to detail its position on every issue, but, in general, CURB seeks an order that rejects the

settlement, reduces the increase, sets a more reasonable ROE, and resolves at least some of the policy and accounting issues in dispute in favor of the ratepayers.

3) The “public interest” in the context of ratemaking is, above all, an interest in well-executed due process. Many references to the public interest in case law are made in conjunction with references to “balancing of interests,” a “zone of reasonableness,” “just and fair” – all of which point to the general public interest in fair, unbiased ratemaking proceedings, in fair weighing of the evidence and in reasoned balancing of the various parties’ interests. Unless consumer interests are protected, for example, rates cannot be determined to be just and reasonable. *See KGE v KCC*, 720 P.2d 1063, 1072 (citations omitted).


There is another sense in which the “public interest” comes into play in ratemaking, and that is when the Commission, in its discretion, takes notice of matters outside the proceeding itself that may be relevant to, or impacted by, the Commission’s determinations. Economic conditions, ecological and environmental concerns, other legal proceedings, events, the commissioners’ personal or professional experiences, matters of common knowledge—considerations such as these may be interwoven into the decision-making process to craft a decision that is not simply within the “zone of reasonableness,” but fine-tuned to make it *more* reasonable. The Commission’s exercise of its discretion to adopt new policies as conditions change and to consider the wider impact of its decisions beyond the immediate concerns of the parties is an exercise in considering—and defining—“the public interest”. Even in this sense, however, the broad discretion afforded the Commission in its deliberations contributes to the overall reasonableness and fairness of the decision-making process. Thus, the public interest in the fairness (or justice or reasonableness) of the process also protects the public interest in the fairness (or justice or reasonableness) of the outcome.

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

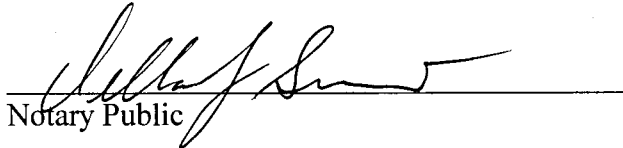
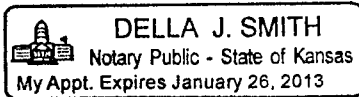
I, Niki Christopher, of lawful age, being first duly sworn upon her oath states:

That she is an attorney for the above named petitioner; that she has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.



Niki Christopher

SUBSCRIBED AND SWORN to before me this 9th day of February, 2012.


Notary Public

My Commission expires: 01-26-2013.

CERTIFICATE OF SERVICE

12-WSEE-112-RTS

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 9th day of February, 2012, to the following:

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