

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

SEP 20 2013

by
State Corporation Commission
of Kansas

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking)
Commission Approval for Tariff Revisions to)
The Energy Efficiency Rider.)

Docket No. 14-WSEE-030-TAR

CURB's Response to Staff's Report and Recommendation

The Citizen's 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 Report and Recommendation which was filed in the above-captioned docket on September 10, 2013.

1. On July 11, 2013, 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 \$10,522,147 in costs associated with Westar's various energy-efficiency programs.

2. On September 10, 2013, Staff recommended the Commission approve Westar's EER. Staff's recommendation is based upon its audit of expenditures associated with Westar's energy-efficiency and demand response programs. Staff's examination finds \$10,420,179 in expenditures from July 2012 through June 2013. Additionally, Staff finds \$101,968 in approved programs costs that are under recovered from Westar's previous EER.

3. This is the fourth EER application filed by Westar.¹ The table below shows the program costs that were audited by Staff and subsequently approved by the Commission for recovery through Westar's EER.

	Program costs in 11-WSEE-032-TAR	Program costs in 12-WSEE-063-TAR	Program costs in 13-WSEE-033-TAR	Program costs in 14-WSEE-030-TAR	Total Program Costs
Energy Efficiency Education 09-WSEE-986-ACT	175,299.22	321,711.00	227,223.00	132,042.00	856,275.22
Building Operator Certification 09-WSEE-738-MIS	72,822.01	51,308.00	75,112.00	60,365.00	259,607.01
Watt Saver Air Conditioner Cycling 09-WSEE-636-TAR	3,498,756.95	5,545,869.00	6,755,547.00	6,269,581.00	22,069,753.95
Energy Efficiency Demand Response Rider 10-WSEE-141-TAR	2,083,612.99	4,623,818.00	4,517,703.00	3,955,622.00	15,180,755.99
Simple Savings Program Rider 10-WSEE-775-TAR	0.00	29,040.00	71,934.00	2,569.00	103,543.00
Total Amount of Westar Energy Efficiency and Demand Response program:					\$38,469,935.17

4. Westar's energy-efficiency and demand response programs were approved under the guidelines established in the Commission's general investigations in 08-GIMX-441-GIV ("441 Docket") and 08-GIMX-442-GIV ("442 Docket"). The 441 Docket established guidelines for recovery of costs associated with energy-efficiency and demand response programs. In the

¹ Previous Westar EER application dockets are KCC Docket Nos. 11-WSEE-032-TAR, 12-WSEE-063-TAR, and 13-WSEE-033-TAR.

441 Docket, the Commission indicated that EERs should be implemented in a manner that “...maintains the Commission’s responsibility to review costs for prudence.”²

5. Staff has long maintained that because all energy-efficiency programs and program budgets have been previously approved by the Commission, the annual EER proceedings are not the appropriate dockets in which to review prudence. Staff has indicated that “(a) determination of whether the expenditures are prudent will be made within an EM&V [Evaluation, Measurement, and Verification] proceeding or within a rate case where there is sufficient data available to fairly evaluate the program.”³ Accordingly, Staff limits its review of EERs to examinations of expenditure consistency – both in scope and amount – with that previously approved by the Commission.

6. The 442 Docket established Commission goals and guidelines for determining which programs produce positive benefits. One such guideline established by the Commission provides a schedule for the Evaluation, Measurement, and Verification (“EM&V”) of Commission-approved programs. The EM&V procedure developed within the 442 Docket allows an opportunity for the Commission to review the performance of energy-efficiency programs and the prudence of expenditures with input from all intervening parties. The Commission found that “EM&V evaluation should be conducted two years after program

² KCC Docket No. 08-GIMX-441-GIV, November 14, 2008, *Final Order*, at ¶38.

³ KCC Docket No. 11-WSEE-032-TAR, September 22, 2010, *Staff’s Response to Comments of CURB*, at ¶6.

implementation. By this, the Commission means that two years after program implementation, the review process should begin such that two years of data will be under review.”⁴

7. Four of Westar’s five energy-efficiency and demand response programs were implemented in early 2010. However CURB cannot locate any Commission dockets or proceedings in which an EM&V evaluation has been initiated by Staff or Westar. Similarly, CURB cannot find evidence that Westar has reported on the performance of these programs or conducted the Commission-prescribed EM&V.⁵ Further, CURB cannot locate any request made by Westar to waive the EM&V requirements dictated by the Commission in the 442 Docket. At the time of its application, Westar’s energy-efficiency and demand response programs have been operating for over three calendar years, without any type of prudence review or EM&V process. This is in direct conflict with the Commission’s order in the 442 Docket.

8. At this time, CURB does not dispute the accuracy of Staff’s audit in this proceeding finding that \$10,420,179 in expenses have been incurred by Westar for its Commission-approved demand response and energy-efficiency programs from July 2012 through June 2013. It appears Staff has conducted an accurate accounting of the numbers and audit of invoices supporting the expenditures. However, CURB is concerned that Westar has been allowed to expend and to recover \$38,469,935.17 for energy-efficiency and demand

⁴ KCC Docket No. 08-GIMX-442-GIV, April 13, 2009, *Order Following Collaborative on Benefit Cost Testing and Evaluation, Measurement, and Verification*, at ¶149.

⁵ CURB issued data requests in this proceeding requesting copies of any internal or external EM&V that may have been conducted by Westar of its energy efficiency and demand response programs. However, given time constraints in the proceeding and the Commission’s late approval of CURB’s petition for intervention, Westar has not had time to respond to CURB’s data requests at the time of this filing. CURB would be willing to provide Westar’s responses to the Commission in a subsequent filing, if so directed by the Commission.

response programs, without any type of prudence review or assessment of whether the programs are producing positive benefits.

9. Therefore, although CURB supports Staff's conclusion as to the accounting and audit of Westar's EER, CURB believes the Commission should order the prudence review of Westar's energy-efficiency and demand response programs. At this point, over \$38 million dollars have been spent during a three-year period on energy-efficiency and demand response programs, without any investigation whether or not these programs are producing actual economic benefits.

10. If it is the responsibility of CURB, Staff, or another party to request EM&V, but these annual EER application dockets are not the appropriate proceedings in which to assess prudence, then CURB requests that the Commission identify the appropriate procedure by which a party may initiate the EM&V process. CURB recommends the Commission identify the appropriate type of proceedings during the course of which a party may validly request an EM&V of existing programs. As it is, there appears to be no avenue for assuring that energy-efficiency and demand response programs are evaluated for cost-effectiveness and prudence on a timely basis for cost-effectiveness and prudence on a timely basis.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "m. h. d.", written in a cursive style.

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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

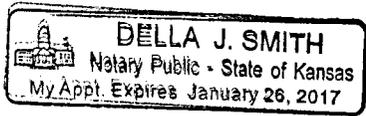
I, Niki Christopher, of lawful age, being first duly sworn upon her oath states:

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



Niki Christopher

SUBSCRIBED AND SWORN to before me this 20th day of September, 2013.



Notary Public

My Commission expires: 01-26-2017.

CERTIFICATE OF SERVICE

14-WSEE-030-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 20th day of September, 2013, to the following parties:

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