

123 FERC ¶ 61,222
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Westar Energy, Inc.

Docket Nos. ER08-777-000
AC08-30-001

ORDER CONDITIONALLY ACCEPTING REVISIONS TO FORMULA RATE

(Issued May 29, 2008)

1. On April 1, 2008, Westar Energy, Inc. and its wholly-owned subsidiary, Kansas Gas and Electric Company (KG&E) (together, Westar), filed proposed revisions to their formula rate, which are intended to recover ice storm damage expenses incurred in December 2007. In this order we conditionally accept the proposed tariff revisions for filing, as modified.

Background

2. Westar currently provides transmission service under the Westar Open Access Transmission Tariff (OATT) at a cost-of-service formula transmission rate and under the Southwest Power Pool, Inc. (SPP) OATT in the Westar Zone at rates that reference the cost-of-service formula transmission rate in the Westar OATT. Recently, Westar proposed revisions to its cost-of-service formula transmission rate for all transmission facilities turned over to the operational control of SPP to reflect transmission rate incentives. Its proposal was accepted, in part, subject to a nominal suspension and conditions, to become effective June 1, 2008, subject to refund, and hearing and settlement judge procedures.¹ However, Westar's transmission formula rate does not currently include provisions for the deferred recovery of storm damage costs.

3. In December 2007, ice storms caused significant damage to Westar's transmission and distribution system. According to Westar, it incurred estimated storm-related

¹ See *Westar Energy, Inc.*, 122 FERC ¶ 61,268 (2008) (*Westar Energy*).

expenses of between \$73 and \$85 million. Of that amount, an estimated \$6.8 million are transmission operation and maintenance (O&M) costs.²

4. Westar submitted an application to the Kansas Corporation Commission (KCC) for permission to defer the non-transmission storm-related expenses as a regulatory asset. The KCC granted Westar's request and authorized the company to record and preserve its non-transmission storm-related expenses in a "separate and distinct sub-account of FERC Account 182.3" to be considered for rate recovery in Westar's state rate case in May 2008.³

5. Because of the magnitude of its storm-related transmission expenses, Westar submitted an application to the Commission's Chief Accountant in Docket No. AC08-30-000 for permission to record its storm-related transmission O&M expenses in the Commission's Uniform System of Accounts, Account 182.1, Extraordinary Property Losses, rather than simply expense the \$6.8 million in 2007. On March 25, 2008, the Chief Accountant granted Westar's request to defer the \$6.8 million, but found that, based on Westar's recent history, the December 2007 ice storm did not meet the Commission's requirements for treatment as an "extraordinary item."⁴ The Chief Accountant granted Westar authorization to record the expenses in Account 182.3, Other Regulatory Assets, which amounts "should be amortized to Account 407.3, Regulatory Debits, consistent with recovery of such amounts in rates."⁵

Proposed Rate Formula Revision

6. On April 1, 2008, Westar filed proposed revisions to its transmission rate formula in Attachment H-1 (Rate Formula Template) to its OATT to provide for rate recovery of its December 2007 ice storm-related transmission O&M expenses. Westar states that it maintains property damage reserve accounts, Account 228.1, Accumulated Provision for Property Insurance, and has allocated the amounts accrued in Sub-Account 2281002 to

² See April 1, 2008 Transmittal Letter in Docket No. ER08-777-000 (Transmittal Letter) at 2.

³ See *id.* at 2, n.1, citing In the Matter of the Application of Westar Energy, Inc., and Kansas Gas and Electric Company for an Accounting Authority Order Allowing the Companies to Record and Preserve Costs Related to Ice Storm Damage, Docket No. 08-WSEE-690-ACT, issued February 25, 2008, mimeo at 3.

⁴ See *id.* at 2, n.2, citing *Westar Energy, Inc., and Kansas Gas and Electric Company*, Docket No. AC08-30-000, unpublished letter order issued March 25, 2008, at 2 ("Chief Accountant Order").

⁵ *Id.* at 2, n. 3, citing Chief Accountant's Order at 1.

transmission based on the labor allocators in Westar's Rate Formula Template for each operating company's transmission labor ratio. According to Westar, "as of December 31, 2007, the [Westar Energy] transmission property damage reserve account had a credit balance of approximately \$110,358; [KG&E] had a credit balance of approximately \$147,615. Westar proposes to use the accrued amounts to offset the December 2007 ice storm-related transmission expenses in Account 182.3, and to collect in rates the remaining amount in Account 182.3."⁶

7. In order to lessen the rate impact to its customers of the December 2007 ice storm-related transmission expenses, Westar proposes to amortize such amounts in Account 182.3, subject to true-up (for final determination of actual costs incurred) and net of amounts currently recorded in Westar's property damage reserve accounts, to Account 407.3, Regulatory Debits, over a three-year period commencing June 1, 2008. Westar proposes to revise its Rate Formula Template to include the unamortized ice storm-related transmission expenses, offset by the transmission related storm damage reserves, in rate base, and to increase the depreciation expense by the annual amortization of the ice storm-related transmission expenses.

8. Alternatively, Westar requests Commission authorization to recover such amount in rates beginning June 1, 2008, as if the storm-related expenses had not been deferred in Account 182.3 and to reduce rate base by the property damage reserve in Sub-Account 2281002.⁷

Notice and Responses

9. Notice of Westar's filing was published in the *Federal Register*, 73 Fed. Reg. 19,211 (2008), with protests and interventions due on or before April 22, 2008. SPP filed a motion to intervene without substantive comment. Kansas Electric Power Cooperative, Inc. (Kansas Electric Cooperative) filed a motion to intervene with comments. Westar filed an answer to Kansas Electric Cooperative's comments.

Discussion

Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept

⁶ See Transmittal Letter at 3.

⁷ See *id.* at 4.

Westar's answer because it has provided information that assisted us in our decision-making process.

Kansas Electric Cooperative's Comments

11. Kansas Electric Cooperative raises three issues. First, it is concerned that Westar's proposed modifications to the OATT are generic even though the filing is a request for specific treatment for a single event. Kansas Electric Cooperative asks for clarification that no such costs for future events may be included without specific authorization as to those costs.⁸

12. Second, Kansas Electric Cooperative asserts that if Westar is including in transmission O&M expense (or elsewhere) a charge to reestablish its storm damage reserve accrual, it should deduct the transmission portion of such storm damage accrual from the transmission rate base going forward (unless it is a funded reserve where the monies collected are escrowed and the earnings on such escrow account also go into the reserve).⁹

13. Third, Kansas Electric Cooperative notes that Westar's filing contains no off-set for insurance coverage. It seeks clarification as to whether Westar is self-insured.

Westar's Answer

14. Westar's answer addresses the three concerns expressed by Kansas Electric Cooperative. First, Westar clarifies that it intended the filing to encompass only the recovery of the expenses associated with the December 2007 ice storm. Westar also states that if it wishes to utilize the proposed method of expense recovery for future events, it would file an application with the Commission for approval of such recovery in rates.¹⁰

15. In response to Kansas Electric Cooperative's second concern, Westar states that the storm damage reserve is an offset to rate base. Westar points out that under the proposal it accrues reserves in expectation of future storm damage. According to Westar, each month, the amount that is added to the transmission storm damage reserve is also recorded as an expense. Westar explains further that when calculating rate base, the unamortized storm damage is added to rate base and the transmission storm damage reserve is subtracted from rate base.¹¹ Finally, Westar states that when calculating

⁸ Kansas Electric Cooperative's Comments at 3.

⁹ *Id.* at 3-4.

¹⁰ Westar's Answer at 1.

¹¹ *See id.* at 2, citing Attachment B, p.1, lines 19a, 19b, 20, and 26.

depreciation expenses, the amortization of transmission storm damages is added to the other depreciation expense items.¹²

16. Lastly, Westar clarifies that it is self-insured and does not have insurance that would apply to the expenses it incurred as the result of the December 2007 ice storm.

Commission Determination

17. Westar notes that in the Chief Accountant's Order, it was authorized to record the storm-related transmission O&M expenses in Account 182.3 and was required to amortize the expenses to Account 407.3, Regulatory Debits, consistent with recovery of such amounts in rates. Consistent with that order, Westar seeks rate recovery of the storm-related expenses to be amortized to Account 407.3. However, upon further consideration, the Commission finds that the storm-related expenses recorded in Account 182.3 should be amortized to the transmission O&M expense accounts that would have been charged if the costs were not recorded as a regulatory asset - rather than to Account 407.3.

18. The text to Account 182.3 states the amounts in this account are generally to be charged, concurrently with the recovery of the amounts in rates, to the same account that would have been charged if included in income when incurred. Further, Account 182.3 provides for regulatory assets to be amortized to Account 407.3 only when specific identification of the particular source of the regulatory asset cannot be identified or when the regulatory asset is established through Account 407.4, Regulatory Credits.¹³ Westar's storm-related expenses currently recorded in Account 182.3 can be identified to specific transmission operation and maintenance expense accounts and, therefore, should be amortized to those specific expense accounts consistent with rate recovery. Westar must therefore revise its Rate Formula Template to reflect this change and submit a compliance filing within 15 days of the date of this order.

19. We also find that if Westar intends to recover expenses for similar events in the future it must seek Commission approval of such recovery in rates. We require Westar to revise in its compliance filing the Formula Rate Template to specify that the new storm damage line items pertain only to the December 2007 storm damage. For example, Westar must revise its formula rate template on lines 19a "Unamortized Storm Damage"

¹² See *id.* at 2, citing Attachment B, p. 2, line 15a.

¹³ 18 C.F.R. Part 101, Account 182.3. See also *Revisions to Uniform System of Accounts to Account for Allowances under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A*, Order No. 552, 58 Fed. Reg. 17,982 (April 7, 1993), FERC Stats. & Regs., Regulations Preambles 1991-1996 ¶ 30,967 (1993).

on Sheet Nos. 172 and 176, and line 15a “Amortization of Transmission Storm Damages” on Sheet Nos. 173 and 177, to specify that they pertain only to December 2007 storm damages. Westar must also revise in its compliance filing “Note S” on Sheet Nos. 175 and 179 to include the following underlined text: “...line 15a is the annual amortization of transmission storm damages less transmission related reserves as approved by FERC.”

20. In addition, we conditionally accept Westar’s submittal subject to Westar revising its Rate Formula Template as necessary in the compliance filing ordered herein to ensure that future accruals of transmission property damage reserves are subtracted from rate base until they are applied to offset transmission property damage expenses, unless the reserves go into an external escrow account and the earnings on that account accrue to the reserves booked to Account 228.1.

The Commission orders:

(A) Westar’s proposed OATT revisions are hereby conditionally accepted for filing, as modified, to become effective June 1, 2008, as requested.

(B) Westar is hereby directed to submit a compliance filing within fifteen (15) days, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.