

126 FERC ¶ 61,079  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Westar Energy, Inc.

Docket No. ER08-777-002

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued January 29, 2009)

1. On September 12, 2008, Westar Energy, Inc. and its wholly owned subsidiary, Kansas Gas and Electric Company (collectively, Westar), filed revised tariff sheets to Attachment H-1 of Westar's Open Access Transmission Tariff in compliance with the Commission's order issued on August 28, 2008.<sup>1</sup> In this order, the Commission conditionally accepts the proposed tariff revisions subject to modification.

**I. Background**

2. Ice storms caused significant damage to Westar's transmission and distribution system in December 2007. According to Westar, it incurred estimated storm-related expenses of between \$73 and \$85 million. Of that amount, an estimated \$6.8 million are transmission operation and maintenance (O&M) costs.<sup>2</sup>

3. 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.<sup>3</sup>

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<sup>1</sup> *Westar Energy, Inc.*, 124 FERC ¶ 61,204 (2008) (August 28 Order).

<sup>2</sup> *See id.* P 2.

<sup>3</sup> *Id.* P 3.

4. 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."<sup>4</sup> 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."<sup>5</sup>

5. On April 1, 2008, Westar filed proposed revisions to its formula rate, which were intended to provide for the deferred recovery of ice storm damage expenses incurred in December 2007, over a three year period commencing June 1, 2008. In its May 29 Order, the Commission conditionally accepted the proposed tariff revisions for filing, as modified. On June 13, 2008, Westar made a filing in compliance with the May 29 Order. In its August 28 Order, the Commission conditionally accepted Westar's compliance filing pending Westar making explicit its future treatment of the storm damage reserve accrual in account 228.1. Specifically, the Commission stated, "Westar must include a note in its tariff either stating that all future storm damage reserves are subtracted from rate base until they are applied to offset transmission property damage expenses or indicating that the reserves are placed in an external escrow account with the earnings accruing to the reserves booked to Account 228.1."<sup>6</sup>

### **Notice and Responses**

6. Notice of Westar's September 12, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 55,070 (2008), with protests and interventions due on or before October 3, 2008. Kansas Electric Power Cooperative, Inc. (Kansas Electric Cooperative) timely filed comments.

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<sup>4</sup> *Id.* P 4 (citing *Westar Energy, Inc.*, 123 FERC ¶ 61,222 (2008) (May 29 Order)).

<sup>5</sup> *Id.* (quoting May 29 Order).

<sup>6</sup> August 28 Order at P 12.

## II. Discussion

### A. Compliance Filing

7. On September 12, 2008, Westar made its compliance filing in response to the August 28 Order.<sup>7</sup> Westar states that in compliance with the August 28 Order, it has revised Note S on Sheet Nos. 175 and 179 to explicitly note its future treatment of the storm damage reserve accrual in Account 228.1. Westar modified Note S to read, “[a]ll future accruals of storm damage reserves will be subtracted from rate base until they are applied to offset the December 2007 ice storm damage expenses.”<sup>8</sup>

### B. Kansas Electric Cooperative’s Comments

8. Kansas Electric Cooperative claims that the tariff language proposed by Westar does not comply with the Commission’s orders.<sup>9</sup> Kansas Electric Cooperative contends that the reference to “the December 2007 ice” in the last sentence of Note S proposed by Westar should be deleted so that the new sentence reads as follows: “All future accruals of storm damage reserves will be subtracted from rate base until they are applied to offset storm damage expenses.”<sup>10</sup> Kansas Electric Cooperative asserts that Westar’s proposed language could be read to imply that the storm damage reserve accrual to be credited to rate base is fixed as shown and is only credited for so long as the authorized storm damage expense is being amortized.<sup>11</sup>

### C. Commission Determination

9. Westar’s proposed Note S revision fails to comply with the Commission’s August 28 Order. The August 28 Order did not limit the subtraction of storm damage reserve accruals from rate base only to offset the December 2007 ice storm damage expenses. Rather, the Commission directed Westar to “include a note in its tariff... stating that all future storm damage reserves are subtracted from rate base until they are applied to offset transmission property damage expenses.” We find Kansas Electric Cooperative’s proposed sentence: “[a]ll future accruals of storm damage reserves will be

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<sup>7</sup> Westar September 12, 2008 Compliance Filing, Docket No. ER08-777-002.

<sup>8</sup> *Id.* at Attachment A.

<sup>9</sup> Kansas Electric Cooperative October 3, 2008 Comments at 1 (Kansas Electric Comments).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 2.

subtracted from rate base until they are applied to offset storm damage expenses”<sup>12</sup> satisfies the August 28 Order requirement. We direct Westar to include such language in a compliance filing 15 days from the date of issuance of this order.

The Commission orders:

(A) Westar’s compliance filing is 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 from the date of issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Kelliher not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>12</sup> Kansas Electric Comments at 1.