

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF WESTFIELD GAS)
CORPORATION, D/B/A CITIZENS GAS OF)
WESTFIELD ("WESTFIELD GAS") FOR)
AUTHORITY TO DEFER FOR SUBSEQUENT)
RECOVERY COSTS INCURRED TO PROVIDE)
RESIDENTIAL AND COMMERCIAL ENERGY)
EFFICIENCY PROGRAMS)**

**CAUSE NO. 43600
APPROVED: APR 01 2009**

**BY THE COMMISSION:
Gregory D. Server, Commissioner
Aaron A. Schmoll, Administrative Law Judge**

On October 29, 2008, Westfield Gas Corporation, d/b/a Citizens Gas of Westfield ("Westfield Gas" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Verified Petition in this Cause requesting the Commission enter an Order in this Cause finding that Westfield Gas should be authorized to create a regulatory asset in accordance with FAS71 for potential future recovery of the amortized costs associated with granting residential and commercial energy efficiency rebates and directing Westfield Gas to demonstrate in its next rate case, based on the benefits realized as a result of the energy efficiency rebates, that such deferred costs (including carrying costs) should be recovered through its rates and charges.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference in this Cause was commenced on November 24, 2008, at 10:15 a.m. EST in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Proof of publication of the notice of the Prehearing Conference was incorporated into the record and placed in the official files of the Commission. The Petitioner and the Indiana Office of Utility Consumer Counselor ("Public" or "OUCC") appeared and participated at the Prehearing Conference. No members of the general public appeared. On December 3, 2008, the Commission issued a Prehearing Conference Order in this Cause, which established a procedural schedule for this Cause, based on the agreement of Petitioner and the OUCC at the Prehearing Conference.

On December 8, 2008, Petitioner prefiled its prepared case-in-chief consisting of the testimony and exhibits of LaTona S. Prentice. On January 16, 2009, the OUCC prefiled its prepared case-in-chief consisting of the testimony and exhibits of Mitchell Van Cleave. On January 27, 2009, Petitioner prefiled its prepared rebuttal evidence consisting of the rebuttal testimony of LaTona S. Prentice.

Pursuant to notice as provided by law, proof of which was incorporated into the record and placed in the Commission's official files, a public evidentiary hearing was commenced on February 5, 2009, at 9:30 a.m. EST in Room 222, National City Center,

101 West Washington Street, Indianapolis, Indiana. At the hearing, the prefiled testimony and exhibits described above were admitted into the record. The Petitioner and the OUCC appeared and participated in the evidentiary hearing. No members of the general public appeared or otherwise sought to testify.

Based on the applicable law and the evidence of record, the Commission now finds:

1. **Notice and Jurisdiction.** Notice of the public evidentiary hearing held on February 5, 2009, was given as required by law. Petitioner Westfield Gas is a public utility and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana, including certain sections of the Public Service Commission Act, as amended. The Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Westfield Gas is a corporation organized and existing under the laws of the State of Indiana with offices at 2020 North Meridian Street, Indianapolis, Indiana. Westfield Gas provides gas service to approximately 2,865 residential, commercial and industrial customers in and around Westfield, Indiana.

3. **Relief Requested.** In its Verified Petition, Westfield Gas requests that the Commission: (a) find Westfield Gas should be authorized to create a regulatory asset in accordance with FAS71 for potential future recovery of the amortized costs associated with granting residential and commercial energy efficiency rebates; and (b) direct Westfield Gas to demonstrate in its next rate case, based on the benefits realized as a result of the energy efficiency rebates, that such deferred costs (including carrying costs) should be recovered through its rates and charges.

4. **Petitioner's Case-in-Chief Testimony.** LaTona S. Prentice testified on behalf of Petitioner. Ms. Prentice is employed by Citizens Energy Group ("Citizens") as Executive Director of Regulatory Affairs and, pursuant to an operating agreement between Citizens and Westfield Gas, is responsible for the development, implementation and administration of Petitioner's rates and charges and terms and conditions for service. (Petitioner's Exhibit LSP at 1).

Ms. Prentice testified that, as a result of energy efficiency programs recently implemented by Vectren Energy Delivery and Citizens Gas, Westfield Gas faces a dilemma. She stated that because Westfield Gas' service territory is surrounded by Vectren and Citizens Gas service territories, and both utilities' energy efficiency outreach efforts and trade allies will be visible to Westfield Gas customers, certain Westfield Gas customers likely will apply for rebates that are not actually available to them. She explained that Westfield Gas plans to request in its next general rate case approval of an energy efficiency program and a decoupled rate structure, but, until that time, Petitioner would be put in the unfortunate position of denying rebate eligibility to its customers, potentially resulting in confused and dissatisfied customers, or customer decisions to purchase less efficient appliances than they would have chosen, had the rebates been

available to them. In the interest of keeping its customers satisfied, furthering the State's Homegrown Energy Plan goal of improving energy efficiency and infrastructure, and the Commission's desire to encourage energy efficiency to all customers throughout the State, Westfield Gas would like to avoid this situation, if at all possible, by granting energy efficiency rebates consistent with those offered by Citizens Gas, when Westfield Gas customers (who would otherwise qualify) apply for them. (*Id.* at 3 – 4).

Moreover, Ms. Prentice testified, Westfield Gas believes the limited energy efficiency measures contemplated will be beneficial to its customers. However, she explained, Westfield Gas does not intend to directly market these energy efficiency programs to its customers at this time, nor does it intend to provide rebates to builders or authorize any commercial custom grants. Therefore, Ms. Prentice stated, participation during this interim period is expected to be less on a per capita basis than what is anticipated in the Citizens Gas territory and the amount of the regulatory asset Westfield Gas requests authority to create will be minimized. Ms. Prentice provided an exhibit (Petitioner's Exhibit LSP-2) that showed the estimated potential regulatory asset to range between \$6,905 and \$10,290 annually, until Westfield Gas receives authority to recover the regulatory asset amortization in its base rates. (*Id.* at 4 – 5).

Ms. Prentice further explained that, Westfield Gas' rate case will request approval of a decoupled rate design and energy efficiency program similar in scope to Citizens Gas' rate design and energy efficiency program, and although Westfield Gas' proposed energy efficiency program funding would be smaller, it is expected to be proportionate to Citizens Gas' funding on a per customer basis. She stated that in its rate case filing, Westfield Gas will request authority to govern its energy efficiency portfolio in the same manner as Citizens Gas and to combine the governance of the two energy efficiency programs under the same Energy Efficiency Oversight Board. (*Id.* at 5).

Ms. Prentice testified that as of December 8, 2008, Wisconsin Energy Conservation Corporation ("WECC"), which is serving as Citizens Gas' third party administrator for Energy Efficiency Rebates, has denied five applications submitted by builders seeking rebates for new home construction in the Westfield area. She said that WECC has approved one rebate for a residential furnace purchased by a Westfield customer, which rebate will be paid by Westfield. She further stated that because WECC does not maintain statistics for inquiries it receives regarding rebates, it is possible other Westfield customers have contacted WECC about the CitizensEnergySavers program. (*Id.* at 5 – 6).

Next, Ms. Prentice described the types of energy efficiency rebates Westfield Gas customers might apply for. Ms. Prentice testified that she could foresee Westfield Gas customers applying for any of the residential or commercial prescriptive rebates offered by Citizens Gas, which include rebates for a variety of energy efficiency equipment available to residential and commercial customers. (*Id.* at 6).

Finally, Ms. Prentice made clear that Westfield Gas is not in this proceeding requesting pre-approval of the expenditures it will incur to provide the limited number of

energy efficiency rebates described in her testimony. Rather, she explained, Petitioner's instant request is limited to authority to create a regulatory asset and an opportunity to demonstrate in its next general rate case, based on the benefits realized as a result of the energy efficiency rebates, that the deferred costs should be recovered through its base rates and charges or another appropriate cost recovery mechanism. (*Id.* at 8).

5. OUCC's Case-in-Chief Testimony. Mitchell Van Cleave testified on behalf of the OUCC. Mr. Van Cleave is employed by the OUCC as a utility analyst in the Natural Gas Division. Mr. Van Cleave testified that the purpose of his testimony was to explain the OUCC's position concerning Petitioner's request to be granted authority to create a regulatory asset for the purpose of deferring, for subsequent recovery consideration, costs incurred to provide residential and commercial energy efficiency programs. He stated that the OUCC opposes Petitioner's request and described it as "an unprecedented type of relief." (Public's Exh. #1 at page 3).

Mr. Van Cleave testified that, while the Commission has approved energy efficiency programs funded by ratepayers and Normal Temperature Adjustment mechanisms for other gas utilities, in those instances the Commission approved the programs prior to their commencement. He characterized Petitioner's request for a regulatory asset as a "ratepayer-funded utility asset before the program is first approved by the Commission." Therefore, he believes Westfield Gas is requesting an unprecedented type of relief. Mr. Van Cleave testified that when Petitioner was asked during discovery if there was any precedent for its requested relief, he was referred to a 1991 Commission Order involving PSI Energy, Inc. ("PSI") in Cause No. 38986 (the "1991 PSI Order"). Mr. Van Cleave stated that the 1991 PSI Order discusses a 1990 Order in consolidated Cause Nos. 37414-S2 and 38809 (the "1990 PSI Order"). Mr. Van Cleave testified that the 1990 PSI Order authorized PSI to recover \$2 million annually in DSM costs. He further testified that the deferred recovery allowed in the 1991 PSI Order was for DSM costs incurred above the \$2 million that had been authorized in the 1990 PSI Order. He explained that his reading of the 1991 PSI Order is that the Commission was authorizing the deferred recovery of additional DSM costs for a program the Commission had already approved. He analogized that situation to the recovery of deferred pipeline safety costs, which he stated the Commission has allowed Vectren South and Vectren North to recover through annual tracking mechanisms, but only after the Commission initially approved the programs in prior Causes. (*Id.* at 3 - 4).

Finally, Mr. Van Cleave stated his support for Petitioner's offering its customers energy efficiency programs. He suggested that Petitioner should present any energy efficiency costs it incurs for Commission consideration "by an amendment in Cause No. 43624, which was filed on December 31, 2008." Ultimately, Mr. Van Cleave recommended "the Commission deny Petitioner's request for creation of a regulatory asset for the purpose of deferring for subsequent recovery costs incurred to provide residential and commercial energy efficiency programs that have not yet been approved by the Commission." (*Id.* at 5).

6. **Petitioner's Rebuttal Testimony.** Ms. Prentice also testified in rebuttal addressing Mr. Van Cleave's testimony. Ms. Prentice began by explaining that Mr. Van Cleave appears to believe that Westfield Gas is asking the Commission to approve in this proceeding recovery of the deferred costs and stated, "I want to be clear that is not what Westfield is requesting in this Cause." (Petitioner's Exhibit LSP-R at 2). She explained that, in this proceeding, Westfield Gas is simply requesting authority to create the regulatory asset and pointed to passages in the Verified Petition and her case-in-chief testimony that indicate Westfield Gas is not requesting pre-approval of the expenditures it will incur to provide the limited number of energy efficiency rebates described in Petitioner's case-in-chief. (*Id.* at 3).

Ms. Prentice then expressed her disagreement that Westfield Gas was requesting an unprecedented type of relief. She stated that Petitioner's request for authority to defer costs in one proceeding and support the reasonableness and benefits of those costs in a subsequent proceeding is neither unique nor precedent setting. She pointed as an example to the Commission's recent Order in Cause No. 43463, in which the Commission modified the settlement agreement in that case to provide for the creation of a regulatory asset prior to the Commission's determination that the cost should be recovered through the utility's rates and charges. (*Id.* at 4).

Ms. Prentice then discussed the PSI cases addressed by Mr. Van Cleave. She stated that in the proceedings leading to the 1990 PSI Order, PSI made clear the programs at issue had not yet been defined much less approved. Thus, Ms. Prentice testified, the regulatory asset requested and approved in that case related to programs that had not been approved and recovery of the regulatory asset through rates, based on the reasonableness of the costs incurred for those programs and the benefits of the programs themselves, was considered in a subsequent Commission proceeding. Ms. Prentice testified that the combination of relief Westfield Gas is seeking in this Cause (creation of regulatory asset only) and in its pending rate case Cause No. 42624 (subsequent consideration of whether costs included in that regulatory asset can be recovered through rates) is the same as what PSI sought and the Commission approved in the separate proceedings that led to the 1990 PSI Order and 1991 PSI Order. In sum, Ms. Prentice reemphasized, Westfield Gas is not seeking pre-approval of costs in this Cause; but rather is simply seeking authority to defer costs so it can have an opportunity to demonstrate those costs were reasonably incurred and beneficial to customers in its pending rate case Cause No. 43624. (*Id.* at 5 – 6).

Ms. Prentice then explained why creation of the regulatory asset is necessary. She testified that Westfield Gas filed its rate case in Cause No. 43624 on December 31, 2008. She explained that even if the rate case is concluded in less than nine months from the date it was filed, Westfield Gas would have been exposed to the rebate issue for a full year and incurred rebate costs ranging from \$6,905 to \$10,290. Ms. Prentice testified that creation of a regulatory asset is the most appropriate manner to treat those costs from both an accounting and ratemaking perspective.

7. **Commission Discussion and Findings.** Based on the evidence presented in this proceeding, it appears there are two fundamental points Petitioner and the Public

agree on. First, neither party wants the Commission to pre-approve in this proceeding any expenditures Petitioner makes on energy efficiency programs. Second, both parties agree that Petitioner should be permitted an opportunity to demonstrate in its pending rate case, Cause No. 43624, that any such expenditures Petitioner makes were reasonably incurred, beneficial to customers, and should be recovered through Petitioner's rates and charges.

Regarding the first point, Petitioner's witness, Ms. Prentice, testified repeatedly—in her prepared case-in-chief testimony, in her prepared rebuttal testimony and under examination at the hearing—that Petitioner was not seeking approval of the costs that would be included in the regulatory asset Petitioner is seeking authority to establish. (See, e.g., Transcript at 12). With respect to the second point, OUCC's witness, Mr. Van Cleave, stated unequivocally that the OUCC would not object to Petitioner seeking recovery of the rebate costs it incurs and will incur this heating season in its pending rate case Cause No. 43624. (See Transcript at 20).

The point of disagreement involves the manner in which Petitioner will present in Cause No. 43624 the energy efficiency costs it incurs and seeks to recover. Petitioner has requested authority to create a regulatory asset in this proceeding and an opportunity in its pending rate case, based on the benefits realized as a result of the energy efficiency rebates, to demonstrate that the deferred costs should be recovered through its base rates and charges or another appropriate mechanism. In contrast, the OUCC argues that Petitioner should present the energy efficiency costs it seeks to recover "by an amendment in Cause No. 43624." During cross-examination, however, Ms. Prentice stated that the test year in Petitioner's rate case ended March 31, 2008, and that "normally the Commission allows pro forma adjustments within one year of the test year that are fixed, known and measurable." (See Transcript at 9 - 10). The twelve months following the test year will end March 31, 2009. Thus, absent the creation of a regulatory asset, Petitioner would be exposed to non-recovery of energy efficiency rebates made after March 31, 2009 until the Commission issued its Order in Cause No. 43624, if the Commission ultimately approved recovery of rebate expenses going forward.

FAS 71 allows regulated companies to defer costs and create regulatory assets provided the regulatory agency grants authority for such a deferral. As stated in the introduction to FAS 71:

Regulators sometimes include costs in allowable costs in a period other than the period in which the costs would be charged to expense by an unregulated enterprise. That procedure can create assets (future cash inflows that will result from the rate-making process), reduce assets (reductions of future cash inflows that will result from the rate-making process), or create liabilities (future cash outflows that will result from the rate-making process) for the regulated enterprise. For general-purpose financial reporting, an incurred cost for which a regulator permits recovery in a future period is accounted for like an incurred cost that is reimbursable under a cost-reimbursement-type contract.

Statement of Financial Accounting Standards No. 71, at FAS 71-4, *available at* <http://www.fasb.org/st/index.shtml> (viewed on March 23, 2009).

In this case, creation of a regulatory asset is the most appropriate manner to preserve the Commission's ability to consider whether Petitioner should be authorized to recover the costs at issue. As Ms. Prentice explained in her rebuttal testimony, given the amount of time that could elapse before Petitioner's rate case is concluded and the amount of energy efficiency costs Petitioner could incur during that time, "creation of a regulatory asset is the most appropriate manner to treat those costs from both an accounting and ratemaking perspective." Pet. Exh. LSP-R at 8.

In sum, Petitioner's creation of a regulatory asset for the energy efficiency rebate costs, which Ms. Prentice estimated at approximately \$7,000 to \$10,000, is consistent with the Commission's objective to encourage energy efficiency throughout the State and is the appropriate manner to address the potential future recovery of the costs at issue from both a ratemaking and accounting perspective.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Petitioner's request to create a regulatory asset in accordance with FAS71 for potential future recovery of the amortized costs associated with granting residential and commercial energy efficiency rebates shall be and hereby is approved.

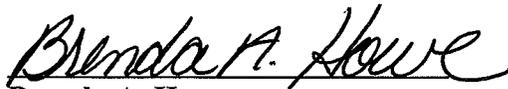
2. Petitioner is directed to demonstrate in its pending rate case, Cause No. 43624, based on the benefits realized as a result of the energy efficiency rebates, whether such deferred costs (including carrying costs) should be recovered through its rates and charges.

3. This Order shall be effective on and after the date of its approval.

HARDY, LANDIS, SERVER, AND ZIEGNER CONCUR; GOLC ABSENT:

APPROVED: APR 01 2009

I hereby certify that the above is a true and correct copy of the Order as approved.



Brenda A. Howe
Secretary to the Commission