

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the General )  
Investigation to Examine Issues ) Docket No. 16-GIME-403-GIE  
Surrounding Rate Design for )  
Distributed Generation Customers. )

**JOINT MOTION TO APPROVE NON-UNANIMOUS  
STIPULATION AND AGREEMENT**

The Staff of the State Corporation Commission of the State of Kansas (“Staff,” and “Commission,” respectively), Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, “Westar”), Kansas City Power & Light Company (KCP&L), Sunflower Electric Power Corporation (Sunflower), Mid-Kansas Electric Company, LLC (Mid-Kansas), Southern Pioneer Electric Company (Southern Pioneer), Kansas Electric Cooperatives, Inc. (KEC), Midwest Energy, Inc. (Midwest Energy), Empire District Electric Company (Empire), Brightergy, LLC,<sup>1</sup> United Wind, Inc.,<sup>2</sup> and IBEW 304, (collectively referred to herein as “Joint Movants”), respectfully move the Commission for an Order approving the Non-Unanimous Stipulation and Agreement (“Stipulation”) filed concurrently with this Motion. The Stipulation is attached as Attachment 1.

1. On March 11, 2016, Staff filed a Motion to Open Docket in the above-captioned docket, attaching a Report and Recommendation in support of its motion.

2. On July 12, 2016, the Commission issued an Order opening this general investigation docket in order to examine various issues surrounding rate structure for Kansas distributed generation (DG) customers.<sup>3</sup> The Commission ordered the parties to the docket “to file

<sup>1</sup> Brightergy is not a signatory to the Stipulation but has indicated that it does not oppose the terms of the Stipulation.

<sup>2</sup> United Wind is not a signatory to the Stipulation but has indicated that it does not oppose the terms of the Stipulation.

<sup>3</sup> Order Opening General Investigation, Ordering Clause A (July 12, 2016).

comments on how the general investigation should proceed to minimize the need for extensive comment periods.”<sup>4</sup> These comments were to be filed within 45 days of the date of the Order Opening General Investigation.<sup>5</sup>

3. Following receipt of comments, the Commission issued an Order Setting Procedural Schedule on February 16, 2017. The Order Setting Procedural Schedule required parties to file initial comments with supporting affidavits by March 17, 2017, and reply comments with supporting affidavits by May 5, 2017. The Order Setting Procedural Schedule also established two roundtables for discussions among the parties, which were held on March 30, 2017, and April 13, 2017.

4. On April 28, 2017, the parties filed a Joint Motion to Modify Procedural Schedule, asking the Commission to convert the prehearing conference scheduled for June 5, 2017, into a settlement conference to give the parties the opportunity to meet and discuss settlement. On May 19, 2017, the Prehearing Officer issued his Order Modifying Procedural Schedule, approving the establishment of the settlement conference.

5. On June 5, 2017, the parties met in person and by phone to discuss potential settlement of the various issues in the docket. A large number of the parties were able to reach agreement on how they believe the Commission should address the issues in this generic docket and that resulted in the Stipulation that is the subject of this motion.

6. Joint Movants believe the Stipulation is reasonable and is in the public interest. Joint Movants respectfully request that the Stipulation be approved. To facilitate the

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<sup>4</sup> Order Opening General Investigation, Ordering Clause D (July 12, 2016).

<sup>5</sup> *Id.*

Commission's consideration of the terms of the Stipulation, several of the Joint Movants will be submitting testimony in support of the Stipulation in advance of the evidentiary hearing in the docket, which is currently scheduled for June 27-28, 2017. The terms of the Stipulation are also supported by the Initial and Reply Comments with supporting affidavits filed by the Joint Movants in accordance with the Commission's procedural schedule in the docket.

WHEREFORE, Joint Movants respectfully request that the Commission approve the Stipulation as proposed by the signatory parties thereto and for such other further relief as may be appropriate.

Respectfully submitted,



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Counsel for IBEW 304

VERIFICATION

STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

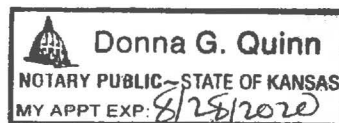
Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that she is familiar with the foregoing **Joint Motion**; and that the statements therein are true and correct to the best of her knowledge and belief.

*Cathryn Dinges*  
Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of June, 2017.

*Donna G. Quinn*  
Notary Public

My Appointment Expires: 8/28/2020



CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of June, 2017, the foregoing **Joint Motion** was electronically filed in the docket and that one copy was delivered electronically to all parties on the service list in the above-captioned docket.

*Cathryn Dinges*  
Cathryn J. Dinges



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In the Matter of the General	)	
Investigation to Examine Issues	)	Docket No. 16-GIME-403-GIE
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Distributed Generation Customers.	)	

**NON-UNANIMOUS STIPULATION AND AGREEMENT**

As a result of discussions between the Staff of the State Corporation Commission of the State of Kansas (“Staff,” and “Commission,” respectively), Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, “Westar”), Kansas City Power & Light Company (KCP&L), Sunflower Electric Power Corporation (Sunflower), Mid-Kansas Electric Company, LLC (Mid-Kansas), Southern Pioneer Electric Company (Southern Pioneer), Kansas Electric Cooperatives, Inc. (KEC), Midwest Energy, Inc. (Midwest Energy), Empire District Electric Company (Empire), Brightergy, LLC (Brightergy),<sup>1</sup> United Wind, Inc.,<sup>2</sup> and IBEW 304 (referred to collectively as the “Settling Parties”), the Settling Parties hereby submit to the Commission for its consideration and approval the following Non-Unanimous Stipulation and Agreement (Stipulation):

**I. BACKGROUND**

1. On March 11, 2016, Staff filed a Motion to Open Docket in the above-captioned docket, attaching a Report and Recommendation in support of its motion.

2. On July 12, 2016, the Commission issued an Order opening this general investigation docket in order to examine various issues surrounding rate structure for Kansas distributed generation (DG) customers.<sup>3</sup> The Commission ordered the parties to the docket “to file comments on how the general investigation should proceed to minimize the need for extensive

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comment periods.”<sup>4</sup> These comments were to be filed within 45 days of the date of the Order Opening General Investigation.<sup>5</sup>

3. Following receipt of comments, the Commission issued an Order Setting Procedural Schedule on February 16, 2017. The Order Setting Procedural Schedule required parties to file initial comments with supporting affidavits by March 17, 2017, and reply comments with supporting affidavits by May 5, 2017.

4. The following parties filed Initial Comments: Commission Staff, CURB, Westar, KCP&L, Empire, Midwest Energy, Southern Pioneer, KEC, Sunflower and Mid-Kansas, Cromwell Environmental, Inc. (Cromwell), Brightergy, , United Wind, Inc. (United Wind), and Climate + Energy Project (CEP).

5. The following parties filed Reply comments: Commission Staff, CURB, Westar, KCP&L, Empire, Midwest Energy, Southern Pioneer, KEC, Cromwell, Brightergy, CEP, IBEW 304, and Sunflower and Mid-Kansas.

6. The Order Setting Procedural Schedule also established two roundtables for discussions among the parties, which were held on March 30, 2017, and April 13, 2017.

7. On April 28, 2017, the parties filed a Joint Motion to Modify Procedural Schedule, asking the Commission to convert the prehearing conference scheduled for June 5, 2017, into a settlement conference to give the parties the opportunity to meet and discuss settlement. On May 19, 2017, the Prehearing Officer issued his Order Modifying Procedural Schedule, approving the establishment of the settlement conference.

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<sup>4</sup> Order Opening General Investigation, Ordering Clause D (July 12, 2016).

<sup>5</sup> *Id.*

8. On June 5, 2017, the parties met in person and by phone to discuss potential settlement of the various issues in the docket. A large number of the parties were able to reach agreement on how they believe the Commission should address the issues in this generic docket. That agreement resulted in this non-unanimous Stipulation.

## II. TERMS OF THE STIPULATION

The Settling Parties have agreed to seek from the Commission the following findings in order to resolve all issues in this docket:

9. DG customers should be uniquely identified within the ratemaking process because of the potentially significant different usage characteristics. Utilities may create a separate residential class or sub-class for DG customers with their own rate design, which appropriately recovers the fixed costs of providing service to residential private DG customers, or a utility may continue to serve residential private DG customers within an existing residential rate class if the utility determines there are too few DG customers to justify a separate residential private DG class or sub-class or determines that other justification exists to retain those customers in the existing rate class. A separate rate class for DG customers is not meant to punish those customers, rather such a rate class would serve to provide clarity for both utilities and customers.

- a. Specific to Westar, Westar's Distributed Generation Residential Rate Schedule implemented in Westar's last rate case shall remain in place and effective for all residential customers installing distributed generation on or after October 28, 2015, and shall be treated as a separate class for purposes of future class cost of service studies and ratemaking generally.

10. The current two-part residential rate design is problematic for utilities and residential private DG customers.

11. The following rate design options are appropriate for residential private DG customers to better recover the costs of providing service to that class or sub-class of customers:

- a. A cost of service based three-part rate consisting of a customer charge, demand charge, and energy charge;
- b. A grid charge based upon either the DG output or nameplate rating; and
- c. A cost of service-based customer charge that is tiered based upon a customer's capacity requirements.

The above list is not meant to preclude a utility from proposing other appropriate rate designs within that individual utility's rate case proceeding.

12. A customer education program must be implemented whenever new residential private DG rate structures are ordered, and that program should be completed as soon as practical after the Commission approves a new rate design.

13. Rates for private residential DG customers should be cost-based and any unquantifiable value of resource approach should not be considered when setting rates. A class cost of service study provides sufficient support for design of a residential private DG tariff (as identified above in paragraph 11), and no further study is necessary for the purpose of this docket.

14. To the extent that a value of resource study (i.e. cost-benefit analysis) is ordered by the Commission to be completed in a future proceeding as a consideration in the ratemaking process for DG customers, the Settling Parties agree that such a study should be utility-specific, and (i) occur within a utility-specific rate case docket; and (ii) include only quantifiable market-based costs and benefits to the utility.

15. Present DG rate design policy is best determined in this docket (instead of delaying further) in order to provide certainty to all parties for the benefit of the orderly development of the

private DG market in Kansas. However, electric utilities that do not currently have DG tariffs shall have the option to propose DG tariffs consistent with the principles established in this general investigation in subsequent general rate case filings for approval by the Commission.

16. Any DG-specific rate design implemented subsequent to this proceeding to serve residential private DG customers would apply to those customers adding DG systems on or after the effective date of those tariffs. Customers with distributed DG systems implemented and operating prior to that date and served by other rate designs will be allowed to remain on those preexisting rates until January 1, 2030<sup>6</sup> to the extent permitted by Kansas law. On and after January 1, 2030, all distributed generation customers will be subject to the then current residential DG rate design.

- a. Specific to Westar, the settlement approved by the Commission in Westar's last general rate case regarding the creation of the "Residential Standard Distributed Generation" tariff is still effective and customers who added DG on or after October 28, 2015, will be subject to the rate design change that occurs in future rate case dockets based on the policy established in this docket.

17. This Stipulation, if approved by the Commission in this Docket, provides guidance to the cooperatives that have elected to be self-regulated pursuant to K.S.A. 66-104d, but such self-regulated cooperatives shall not be bound by the Stipulation.

### **III. MISCELLANEOUS PROVISIONS**

#### **A. The Commission's Rights**

18. Nothing in this Stipulation is intended to impinge or restrict, in any manner, the exercise by the Commission of any statutory right, including the right of access to information,

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<sup>6</sup> The January 1, 2030 date is intended to be consistent with the dates identified in the current net metering legislation.

and any statutory obligation, including the obligation to ensure that utilities are providing efficient and sufficient service at just and reasonable rates.

**B. Parties' Rights**

19. The Settling Parties, including Staff, shall have the right to present pre-filed testimony in support of this Stipulation. Such testimony shall be filed formally in the docket and presented by witnesses at the evidentiary hearing in this docket.

**C. Waiver of Cross-Examination**

20. The Settling Parties waive cross-examination on each others' testimony<sup>7</sup> filed prior to the filing of this Stipulation. The Settling Parties agree that all such prefiled testimony and testimony filed in support of the Stipulation may be admitted into the record without their objection.

**D. Negotiated Settlement**

21. This Stipulation represents a non-unanimous negotiated settlement that fully resolves the issues addressed in this document. The Settling Parties represent that the terms of this Stipulation constitute a fair and reasonable resolution of the issues addressed herein. Except as specified herein, the Settling Parties shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Stipulation in the instant proceeding. If the Commission accepts this Stipulation in its entirety and incorporates the same into a final order without material modification, the Settling Parties shall be bound by its terms and the Commission's order incorporating its terms as to all issues addressed

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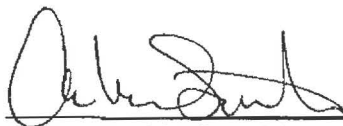
<sup>7</sup> The parties submitted Initial and Reply Comments with Supporting Affidavits. However, the prehearing officer has indicated that the comments and affidavits will be treated as testimony for purposes of the record and the evidentiary hearing.

herein and in accordance with the terms hereof, and will not appeal the Commission's order on these issues.

**E. Interdependent Provisions**

22. The provisions of this Stipulation have resulted from negotiations among the Settling Parties and are interdependent. In the event the Commission does not approve and adopt the terms of this Stipulation in total, it shall be voidable and no Settling Party hereto shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof. Further, in such event, this Stipulation shall be considered privileged and not admissible in evidence or made a part of the record in any proceeding.

IN WITNESS WHEREOF, the Parties have executed and approved this Stipulation and Agreement, effective as of the 16<sup>th</sup> day of June 2017, by subscribing their signatures below.



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FOR KANSAS CITY POWER & LIGHT  
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