

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

**TESTIMONY
OF
JEFF MARTIN
IN SUPPORT OF STIPULATION AND AGREEMENT
WESTAR ENERGY, INC.**

DOCKET NO. 16-GIME-403-GIE

I. INTRODUCTION

1

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. Jeff Martin.

4 **Q. ARE YOU THE SAME JEFF MARTIN WHO SUBMITTED INITIAL**
5 **AND REPLY AFFIDAVITS IN THIS DOCKET?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN SUPPORT**
8 **OF THE STIPULATION AND AGREEMENT?**

9 A. I will provide testimony in support of the Non-Unanimous Stipulation
10 and Agreement (S&A) reached between Staff, Westar, Kansas City
11 Power & Light Company (KCP&L), Sunflower Electric Power
12 Corporation (Sunflower), Mid-Kansas Electric Company, LLC (Mid-
13 Kansas), Southern Pioneer Electric Company (Southern Pioneer),

1 Kansas Electric Cooperatives, Inc. (KEC), Midwest Energy, Inc.
2 (Midwest Energy), Empire District Electric Company (Empire),
3 Brightergy, LLC (Brightergy),¹ United Wind, Inc.,² and IBEW 304
4 (referred to collectively as the “Settling Parties”). I will discuss how
5 the S&A complies with the Commission’s standard for approval of
6 settlement agreements.

7 **II. BENEFITS OF SETTLEMENTS**

8 **Q. WHAT IS THE COMMISSION’S VIEW OF SETTLEMENTS?**

9 A. I understand that the Commission – and Kansas law – strongly favors
10 settlements. The Commission has explained:

11 In general, Kansas favors compromising and settling
12 disputes when the agreement is entered into
13 intelligently, and in good faith. Of the Commission's
14 vast array of cases, settlements are particularly
15 favored when the controversy involves complex
16 litigation taking considerable time and expense to
17 litigate, including the time and expense of multiple
18 appeals.

19 *In Re Atmos Energy*, Order Approving Contested Settlement
20 Agreement, Docket No. 08-ATMG-280-TS, at ¶ 10 (May 12, 2008);
21 *see also Bright v. LSI Corp.*, 254 Kan. 853, 858, 869 P.2d 686, 690
22 (1994) (“the law encourages settlement”).

23 **Q. WHY ARE SETTLEMENTS SUCH AS THE S&A FILED IN THIS**
24 **DOCKET BENEFICIAL?**

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

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

1 A. Settlements such as the one we filed in this docket help to focus the
2 issues to be decided by the Commission and communicate to the
3 Commission the agreement of a large number of parties regarding
4 how they believe the large variety of issues in the docket should be
5 resolved. Although non-unanimous, because it focuses in on the
6 areas where the parties contesting the agreement disagree, the S&A
7 should also help shorten what otherwise could have been a time-
8 consuming litigation process, saving all parties and the Commission
9 time and cost at the evidentiary hearing. The settlement process
10 involves a significant amount of dialogue among the parties, all of
11 whom have disparate interests. There is a large amount of give and
12 take and the result is an agreement that represents a balance among
13 all of the parties with their disparate interests woven into the final
14 agreement reached.

15 **III. SUMMARY OF STIPULATION AND AGREEMENT**

16 **Q. PLEASE DESCRIBE THE TERMS OF THE S&A FILED IN THIS**
17 **DOCKET.**

18 A. The S&A recommends to the Commission findings that would
19 resolve the issues in this generic docket related to rate design for
20 residential customers with private distributed generation (DG). The
21 S&A indicates that residential private DG customers should be
22 uniquely identified within the ratemaking process because of their
23 different usage characteristics and indicates that utilities may create
24 a separate residential class or sub-class for DG customers with their

1 own rate design, which appropriately recovers the fixed costs of
2 providing service to residential private DG customers. Specifically
3 for Westar, the Settling Parties agreed that Westar's Distributed
4 Generation Residential Rate Schedule that we implemented in our
5 last general rate case shall remain in place and effective for all
6 residential customers installing distributed generation on or after
7 October 28, 2015, and shall be treated as a separate class for
8 purposes of future class cost of service studies and ratemaking
9 generally.

10 The S&A also indicates that the Commission should find that
11 the existing two-part rate structure is inadequate for residential
12 private DG customers and that (i) a three-part rate consisting of a
13 customer charge, demand charge, and energy charge, (ii) a grid
14 charge based upon either the DG output or nameplate rating, or (iii)
15 a cost of service-based customer charge that is tiered based upon a
16 customer's capacity requirements would be appropriate for
17 residential private DG customers to better recover the costs of
18 providing service to that class or sub-class of customers.

19 The S&A indicates that a customer education program must
20 be implemented whenever new residential private DG rate structures
21 are ordered, and that program should be completed as soon as
22 practical after the Commission approves a new rate design.

1 The S&A asks that the Commission find that rates for private
2 residential DG customers should be cost-based, that a class cost of
3 service (CCOS) study provides sufficient support for design of a
4 residential private DG tariff, and that no further study is necessary
5 for the purpose of this docket or any future utility-specific rate case
6 dockets regarding DG rate design. The Settling Parties also agreed
7 that in the event the Commission were to require a value of resource
8 study to be completed in a future proceeding as a consideration in
9 the ratemaking process for DG customers, they believe that such a
10 study should be utility-specific, and (i) occur within a utility-specific
11 rate case docket; and (ii) include only quantifiable market-based
12 costs and benefits to the utility.

13 The Settling Parties agree that DG rate design policy is best
14 determined in this docket (instead of delaying further) in order to
15 provide certainty to all parties for the benefit of the orderly
16 development of the private DG market in Kansas.

17 Generally, the S&A provides that any DG-specific rate design
18 implemented subsequent to this proceeding to serve residential
19 private DG customers would apply to those customers adding DG
20 systems on or after the effective date of those tariffs. Customers with
21 distributed DG systems implemented and operating prior to that date
22 and served by other rate designs will be allowed to remain on those
23 preexisting rates until January 1, 2030 to the extent permitted by

1 Kansas law. On and after January 1, 2030, all distributed generation
2 customers will be subject to the then current residential DG rate
3 design. However, with respect to Westar, the S&A indicates that the
4 settlement approved by the Commission in Westar's last general rate
5 case regarding the creation of the "Residential Standard Distributed
6 Generation" tariff is still effective and customers who added DG on
7 or after October 28, 2015, will be subject to the rate design change
8 that occurs in future rate case dockets based on the policy
9 established in this docket.

10 **IV. COMMISSION STANDARD FOR APPROVAL OF SETTLEMENT**

11 **Q. WHAT IS THE STANDARD THE COMMISSION APPLIES TO**
12 **DETERMINE WHETHER TO APPROVE SETTLEMENT**
13 **AGREEMENTS?**

- 14 A. The Commission determines:
- 15 1. Whether each party had an opportunity to be heard on its
16 reasons for opposing the Stipulation;
 - 17 2. Whether the Stipulation is supported by substantial competent
18 evidence;
 - 19 3. Whether the Stipulation conforms with applicable law;
 - 20 4. Whether the Stipulation results in just and reasonable rates;
21 and
 - 22 5. Whether the results of the Stipulation are in the public interest.

23 **Q. HAS EACH PARTY HAD THE OPPORTUNITY TO BE HEARD ON**
24 **ITS REASONS FOR OPPOSING THE S&A?**
25
26
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28

1 A. Yes. All but three parties to the docket either support or do not
2 oppose the terms of the S&A. Although CURB is opposing the S&A,
3 we understand that their opposition is limited and related to only one
4 or two issues. All parties to the docket had the opportunity to
5 participate in the settlement conference on June 5, 2017, and in the
6 multiple phone calls and emails that occurred subsequent to that
7 date. All parties, including the two opposing the S&A, were provided
8 with draft copies of the S&A and given the opportunity to provide
9 comments and decide whether or not to support the S&A.

10 **Q. IS THE S&A SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE**
11 **RECORD AS A WHOLE?**

12 A. Yes. The provisions of the S&A related to the utilities' ability to
13 separate residential private DG customers into a separate class or
14 sub-class are supported by the Initial and/or Reply Comments and
15 Supporting Affidavits filed by Westar, Staff, CURB, KCP&L, Empire,
16 KEC, Southern Pioneer, and IBEW. On behalf of Westar, Dr. Ahmad
17 Faruqui, Ashley Brown, and myself all submitted affidavits explaining
18 why residential private DG customers are partial requirements
19 customers with different usage characteristics and should be
20 included in a separate class from other residential customers. See
21 Faruqui Initial Affidavit, at pp. 3-4, 10-11, Brown Initial Affidavit, at
22 pp. 23-25, Martin Initial Affidavit, at pp. 2-3, Faruqui Reply Affidavit,
23 at pp. 1-2, Martin Reply Affidavit, at pp. 2-4.

1 The provisions of the S&A related to the inadequacy of the
2 two-part rate design and the appropriateness of the three-part rate
3 for residential private DG customers are supported by the Initial
4 and/or Reply Comments and Supporting Affidavits of Westar, Staff,
5 CURB, KCP&L, Sunflower and MKEC, Empire, Southern Pioneer,
6 KEC, and IBEW. Dr. Faruqui, Mr. Brown, and myself all submitted
7 affidavits explaining that under the two-part rate structure, private DG
8 customers avoid paying for a portion of the fixed and already incurred
9 costs associated with generation, transmission, distribution and
10 customer service, even though they continue to rely on some or all
11 the components of those systems. See Faruqui Initial Affidavit, at
12 pp. 5-8, Brown Initial Affidavit, at pp. 25-27, Martin Initial Affidavit, at
13 pp. 3-4. We also explained that a three-part rate for private DG
14 customers will modernize the current rate design to better match
15 fixed costs to fixed charges and variable costs to variable charges,
16 thereby reducing or eliminating the cross subsidy. See Faruqui Initial
17 Affidavit, at pp. 12-22, Brown Initial Affidavit, at pp. 41-42, Martin
18 Initial Affidavit, at pp. 4-5, Faruqui Reply Affidavit, at pp. 1-2, Brown
19 Reply Affidavit, at pp. 1-4, Martin Reply Affidavit, at pp. 5-6. The grid
20 charge and tiered customer charge rate designs contemplated in the
21 S&A are supported by the Initial Comments submitted by CURB,
22 Empire, and Sunflower and MKEC.

1 The provisions of the S&A related to the conclusions that rates
2 for private DG customers should be cost-based, that a utility's class
3 cost of service study provides sufficient support for design, and that
4 no further study is necessary for purposes of this docket or any future
5 utility-specific rate case dockets regarding DG rate design are
6 supported by the Initial and Reply Comments and Supporting
7 Affidavits submitted by Westar, Staff, KCP&L, Southern Pioneer,
8 Sunflower and MKEC, Empire, Southern Pioneer, KEC, Midwest,
9 and IBEW. Dr. Faruqui, Mr. Brown, and myself all discussed the fact
10 that rates should be set based on the quantifiable cost to serve. See
11 Brown Initial Affidavit, at pp. 43-56, Martin Initial Affidavit, at pp. 5-6,
12 Faruqui Reply Affidavit, at pp. 2-4, Brown Reply Affidavit, at pp. 10-
13 15, Martin Reply Affidavit, at p. 7. Dr. Faruqui and I explained that
14 the class cost of service study we file as part of a general rate case
15 application will capture all measurable costs and benefits of the DG
16 class without substantial additional cost and without further delay. If
17 a meaningful level of costs or benefits do become quantifiable in the
18 future, subsequent CCOS studies will reflect this and the rate design
19 implemented in each rate case can change over time as the class
20 changes. See Martin Reply Affidavit, at p. 8, Faruqui Reply Affidavit,
21 at pp. 2-3.

22 The provision of the S&A that discusses what the
23 requirements should be in the event the Commission decided to

1 require a value of resource study in a future proceeding (i.e., that any
2 such study should be utility-specific, and (i) occur within a utility-
3 specific rate case docket; and (ii) include only quantifiable market-
4 based costs and benefits to the utility) is supported by the Initial and
5 Reply Affidavits of Westar, Staff, KCP&L, Sunflower and MKEC,
6 Empire, Southern Pioneer, KEC, Midwest, and IBEW. On behalf of
7 Staff, Dr. Robert Glass submitted an Initial Affidavit that described
8 his definition of market-based costs and benefits and why only those
9 costs and benefits should be considered when setting rates for
10 private DG customers. See Glass Initial Affidavit, at pp. 2-9.

11 The provision of the S&A indicating that now is the time to act
12 to address rate design policy for private DG customers, rather than
13 delaying any further, is supported by the Initial and Reply Comments
14 of Westar, Staff, CURB, KCP&L, KEC, Southern Pioneer, Empire,
15 and IBEW. For Westar, Dr. Faruqui, Mr. Brown, and myself all
16 addressed this issue, explaining that there are significant benefits to
17 correcting the rate design for private DG customers before rooftop
18 PV is adopted in larger numbers and that correcting the rate design
19 for private DG customers now also provides more certainty to
20 customers who may be considering investing in rooftop PV. See
21 Faruqui Reply Affidavit, at pp. 5-9, Brown Reply Affidavit, at pp. 5-
22 13, Martin Reply Affidavit, at pp. 4-5.

1 The provision of the S&A addressing which customers will be
2 affected by rate design changes that result from the policy set in this
3 docket is designed to be consistent with Kansas law regarding net
4 metering. The provision specific to Westar on this issue is consistent
5 with the settlement approved by the Commission in Westar's last
6 general rate case and I provide support for it in my Initial Affidavit.

7 **Q. DOES THE S&A CONFORM TO APPLICABLE LAW?**

8 A. I express no opinion on whether the settlement conforms to
9 applicable law although I have been informed by counsel that it does.
10 I also understand that the Commission has previously recognized
11 that settlements are favored by the law.

12 **Q. WOULD THE RATES IMPLEMENTED PURSUANT TO THE S&A**
13 **BE JUST AND REASONABLE?**

14 A. No rate change will occur immediately as a result of the S&A. If
15 approved by the Commission, the S&A would allow utilities to make
16 changes to rate design for residential private DG customers in their
17 next general rate case. The S&A outlines three rate design options
18 that would be permissible for utilities to use and indicates that the
19 actual rates will be set using the results of a CCOS study. Because
20 Westar already has its residential private DG customers separated
21 into a different class, when we prepare our CCOS study for our next
22 general rate case, the costs that residential private DG customers

1 impose on the system will be separately identified. We will therefore
2 be able to set cost-based rates for those customers.

3 The three rate design options identified in the S&A for
4 residential private DG customers will all help to reduce the subsidy
5 that currently exists in favor of DG customers at the expense of all
6 other residential customers. The rate structures will ensure that
7 residential private DG customers pay more of their share of the fixed
8 costs utilities incur to serve them. The rates themselves will be cost-
9 based and will be subject to review by the Commission, Staff, and
10 other intervening parties in our next rate case. As a result, the rates
11 that will ultimately be implemented if the Commission approves the
12 S&A will be just and reasonable.

13 **Q. ARE THE RESULTS OF THE AGREEMENT IN THE PUBLIC**
14 **INTEREST?**

15 A. Yes. The S&A is supported by a variety of parties, all with varying
16 interests and a duty to protect the interests of those it represents.
17 The S&A is supported by the investor-owned utilities, the electric
18 cooperatives, IBEW 304, and Staff and is not opposed by Brightergy
19 or by United Wind, both of whom are installers of renewable
20 distributed generation. Additionally, I understand that CURB will
21 submit testimony explaining that it supports the majority of the
22 settlement and only has concerns with one of the paragraphs for a
23 couple of specific reasons.

1 As I indicated above, separation of residential private DG
2 customers into a separate class or sub-class and application of one
3 of the three rate structures authorized in the S&A will help to reduce
4 the subsidy that currently exists in favor of DG customers at the
5 expense of all other residential customers and will ensure that
6 residential private DG customers are paying more of their share of
7 the fixed costs they impose on the system.

8 Additionally, addressing these issues now will actually foster
9 the growth of the solar industry by providing certainty to customers
10 and incenting behavior from solar installers and customers that
11 enhances the benefits DG can provide to the grid. As I explained in
12 my Reply Affidavit:

13 This is the perfect time to address the issues that exist
14 as a result of the current rate design for customers with
15 private DG. All of Westar's customers who have
16 installed private DG since October 2015 have been
17 placed on the separate Residential DG Tariff as
18 ordered by the Commission and will not be
19 grandfathered to an old rate when the rate design for
20 customers with private DG is established.³ Since
21 October 2015, the number of customers with private
22 DG on Westar's system has grown from about 250 to
23 over 500. These customers and any new customers
24 with private DG added in the future all face uncertainty
25 with respect to the rate they will pay for electric service
26 in the future. This lack of clarity reduces the ability of
27 customers considering installing private DG to make an
28 economic evaluation of the investment and on solar

³ Under the settlement agreement approved by the Commission in the 15-115 Docket, DG customers that had installed and connected their DG systems to Westar's system prior to October 28, 2015, are grandfathered under the "Residential Standard Service" tariff; however, DG customers who install and connect their DG systems on or after October 28, 2015, take service under the "Residential Standard DG" tariff and will be impacted by any tariff change that is implemented as a result of this docket.

1 installers' ability to make sales. Providing clarity with
2 respect to the rate design now will give clarity to those
3 customers considering investing in solar and should
4 help encourage further growth of that industry in
5 Kansas. Additionally, only about 250 customers –
6 those who have installed private DG and connected to
7 Westar's system since October 2015 – will be impacted
8 by a rate design change now. That number of
9 impacted customers will continue to grow the longer
10 the Commission waits to make a change.

11 Martin Reply Affidavit, at pp. 4-5. Additionally, as Mr. Brown
12 explained in his Initial Comments:

13 Recent analysis by the Rocky Mountain Institute
14 suggests the possibility that a three part rate may be
15 very successful in reconciling the interests of solar
16 customers with a set of incentives that drive the
17 efficiency and development of solar technology and
18 that establish a fair and level playing field for solar and
19 other technologies, while eliminating cross-subsidies
20 from non-solar to solar customers . . . Far from being
21 anti-competitive, a rate tailored to distributed
22 generation customers creates opportunities, not only
23 for rooftop solar, but for efficiency enhancing
24 technologies, and levels the playing field for other
25 valuable resources to compete more fairly.

26 Brown Initial Affidavit, at pp. 57-58.

27 As a result, the Commission's approval of the S&A will be in
28 the public interest.

29 **Q. THANK YOU.**