

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

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

**THE ALLIANCE FOR SOLAR CHOICE'S PETITION TO INTERVENE AND  
RESPONSE TO STAFF'S MOTION TO OPEN DOCKET**

The Alliance for Solar Choice (TASC) respectfully files this Petition to Intervene in the above-referenced docket pursuant to Kansas Administrative Regulations, Section 82-1-225. TASC is an association of rooftop solar developers operating across the country. Its members include SolarCity, Sunrun, Geostellar Inc., LGCY Power, Lightwave Solar, REPOWER by Solar Universe, Palmetto Solar, and SunTime Energy. TASC's member companies, and their affiliates, have already sold hundreds of thousands of dollars' worth of solar equipment to solar service providers and residents in Kansas. TASC's members are active in Kansas and hope to continue to significantly expand within the State. TASC advocates for successful distributed solar energy policies that expand consumer choice in energy. In support of its petition, TASC states to the State Corporation Commission of the State of Kansas (KCC or Commission) as follows:

**Petition to Intervene**

1. On March 11, 2016, Staff filed its Motion to Open Docket and an attached Report and Recommendation pursuant to the Commission's Order Approving Stipulation and Agreement in Docket Number 15-WSEE-115-RTS. In its Motion to Open Docket, Staff recommended that "the Commission open a generic docket to investigate rate design for distributed generation customers; to determine the appropriate rate structure

for distributed generation customers by evaluating the costs and benefits of distributed generation; and to evaluate potential rate design alternatives for distributed generation customers.” (§ 3). Staff explains that the “overarching goal for the generic docket is to determine *whether* a separate Residential Standard Distribution Tariff is necessary, and, if so, how to structure the Residential Standard Distributed Generation Tariff in order to properly recover just and reasonable costs from DG customers.” (Report and Recommendation, p. 4 (emphasis added)). Importantly, Staff recommends that “the policy guidance from this generic docket should be binding upon parties and nonparties alike.” (Report and Recommendation, pp. 7-8).

2. Kansas Administrative Regulations, Section 82-1-225 governs the standards for intervention and requires a petitioner to file a petition that “states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.” As providers of solar distributed generation, TASC’s members have a substantial interest in the Commission’s evaluation of the benefits and costs of distributed generation and in the Commission’s determination of any potential rate design alternatives for distributed generation customers.

3. When TASC’s members sell distributed solar generation equipment or services to Kansas residents, those residents are subject to the State of Kansas’ policies for customers with distributed generation. Existing policies allow these residents, among other things, to net meter the energy production from their distributed generation system

and to continue to be treated the same as other residential utility customers.<sup>1</sup> Any binding policy guidance on rate design for these customers that the Commission issues in this generic docket will directly and substantially impact TASC's members' ability to continue providing solar generation equipment and services to Kansans. The fact that TASC's members currently conduct business in Kansas, and the fact that those Kansas-based business activities are potentially at stake in this docket, demonstrate that TASC, through its members, has a direct Kansas nexus and should be allowed to participate fully in this docket.

4. The Commission previously granted TASC's intervention in Westar's rate case, Docket No. 15-WSEE-115-RTS. (see Order on Interventions, Petition for Leave to Issue Discovery, Motion to Accept Pre-Filed Direct Testimony Out of Time and Modifying Procedural Schedule, ¶ 24). TASC's participation was limited to issues that were designated for adjudication in Phase II of the evidentiary hearing in that docket (Id. at ¶ 25). Those Phase II issues included Westar's two new proposed residential tariffs, to which distributed generation customers would be restricted. (Id. at ¶ 82). The Commission granted TASC's limited intervention in part because it found that Westar's Community Solar proposals "may lead to potential unfair competition between Westar and TASC," which would both directly impact TASC and its members and substantially affect TASC's rights. (Id. at ¶ 23). The Commission further granted TASC's intervention with respect to Westar's new proposed residential tariffs because, as the Commission stated, it was "interested in gaining perspective from TASC's knowledge of solar distributed generation issues on a nationwide scale as well as issues other jurisdictions

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<sup>1</sup> See Westar Energy's Residential Standard Distributed Generation tariff sheets, available at: [https://www.westarenergy.com/Portals/0/Resources/Documents/Tariffs/Residential\\_Service\\_DG\\_1015.pdf](https://www.westarenergy.com/Portals/0/Resources/Documents/Tariffs/Residential_Service_DG_1015.pdf). See also the Kansas Net Metering and Easy Connection Act, K.S.A. 66-1263, *et. seq.*

have faced when examining residential rate design.” (Id. at ¶ 24).

5. On September 24, 2015, the Commission issued its Order Approving Stipulation and Agreement in docket number 15-WSEE-115RTS. In that Order, the Commission approved the Stipulation and Agreement’s proposal to open a generic docket to investigate the distributed generation rate design issues that had previously been assigned to Phase II of the rate case. As part of the Stipulation and Agreement, Westar had agreed to withdraw its two new residential rate proposals and to defer the issue of whether residential DG customers should be on a separate rate design, and, if so, what that separate rate design should be, to a generic docket. (Unopposed Motion to File Addendum to Stipulation and Agreement Out of Time, ¶ 3). The parties to the Stipulation and Agreement also committed not to oppose the interventions of any of the parties collectively referred to as the Solar Parties, including TASC, in the generic docket that they recommended the Commission open. (Id. at ¶ 6).

6. This docket that Staff has now moved the Commission to open is the generic docket that the parties to the Stipulation and Agreement contemplated. As Staff explains in its Motion to Open Docket, rather than examining the specific rate structures that Westar had originally proposed in the rate case, Staff recommends that the Commission consider potential rate design alternatives for distributed generation customers more generally, examine whether separate rate treatment is even necessary for these customers, and evaluate the benefits and costs of distributed generation. TASC’s knowledge of distributed generation issues, which the Commission recognized as grounds for granting TASC intervention in Phase II of the rate case, will be equally helpful to the Commission in this generic docket (assuming the Commission decides to

formally open it) as this knowledge would have been in Phase II of the rate case had Phase II gone to hearing. As a result, if the Commission opens this docket as recommended by Staff, TASC should be permitted to intervene as this will be the only proceeding where it can be heard on the rate design issues in which the Commission previously found TASC had an interest. TASC submits that it also has an interest in these rate design issues generally as competitive providers of solar equipment and services. If Kansas's utilities are allowed to *inappropriately or unfairly* re-design rates for customers in a way that makes rooftop solar less affordable or unaffordable, it could also lead to unfair competition.

7. Because TASC's rights will be affected by any policy guidance that the Commission issues in this generic docket, and because TASC's knowledge of distributed generation issues will be helpful to the Commission as it examines these issues, TASC respectfully petitions the Commission to grant it full intervenor status in the docket with all rights that accompany that status, including but not limited to serving discovery, filing motions and other pleading as appropriate, presenting oral argument, and fully participating in any Commission hearings in this docket.

8. TASC requests service of all pleadings, orders, and other documents in the above titled proceeding on the following listed individuals:

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Response to Staff's Motion to Open Docket

9. TASC appreciates the analysis Staff provided in its Report and Recommendation, particularly concerning the appropriate scope of this generic docket. In this generic docket, the Commission will be faced with the question of whether it is necessary and appropriate to create a separate rate class or classes for customers who install distributed generation. As the Commission is well-aware, it is rare for a utility to propose, and for the Commission to approve, a new rate class for customers who have met the definition of an existing rate class for years.

10. As the Staff's Report and Recommendation proposes, an analysis of both the costs and the benefits of providing utility service to distributed generation customers is crucial in order to determine if a separate rate class is necessary. TASC acknowledges, along with Staff, that it is sometimes more challenging to quantify certain benefits of distributed generation than it is to quantify some costs in traditional ratemaking. That does not mean, however, that these benefits cannot be quantified, nor does it mean that quantifiable benefits have no place in cost-based ratemaking, as Westar argues in its

Motion to Intervene and Response of Westar Energy, Inc. and Kansas Gas and Electric Company to Staff's Motion to Open Docket. (Westar's Motion and Response, ¶ 12). If the cost of a utility serving a distributed generation customer are *offset by the benefits* that customer provides with his or her distributed generation system, the utility's *actual costs* of providing service to that customer are lower than they would be if the customer did not have distributed generation. In other words, traditional cost-based ratemaking requires the Commission to determine the utility's *net cost* of providing service to customers in order to establish rates for those customers that are just and reasonable.

11. An example may help illustrate this point. When a utility offers a demand response program to customers, customers are paid – typically through bill credits – to reduce demand during peak hours when demand for energy is high and the utility's cost of providing service is higher than average.<sup>2</sup> When a customer reduces his or her demand for energy during peak hours, he or she provides a benefit to the utility that reduces the utility's cost of providing service. When the utility gives the customer a bill credit for participating in the demand response event, the customer effectively pays the *net cost* the utility incurred to provide service to the customer (*i.e.*, the cost of providing service reflected in rates minus the benefit the customer provided to the utility by participating in the demand response event).

12. The particular benefits that customers with distributed generation provide to the utility system cannot be ignored if the Commission plans to examine the particular costs imposed by these customers. It is especially important to include benefits in the analysis if the Commission plans to decide whether a utility's net cost of providing

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<sup>2</sup> See, *e.g.*, Westar's Energy Efficiency and Demand Response Program Rider, Schedule EEDR, available at: [https://www.westarenergy.com/Portals/0/Resources/Documents/Tariffs/Energy\\_Eff\\_Dem\\_Resp\\_1015.pdf](https://www.westarenergy.com/Portals/0/Resources/Documents/Tariffs/Energy_Eff_Dem_Resp_1015.pdf).

service to distributed generation customers varies so significantly from the net cost of providing service to other residential customers that a new residential rate class is warranted.

13. Significantly, other states that have examined the benefits and costs of net metering residential distributed energy systems have found that the dollar value of the benefits distributed generation customers provide to the utility system actually exceeds the retail rate, indicating that utilities typically do recover the net cost of providing service to customers with distributed energy systems.<sup>3</sup> If the benefits of distributed generation systems in Kansas exceed the costs they impose on Kansas utilities, there would be little justification for creating a distinct rate class for customers who install their own distributed generation systems. Even if the Commission were to find that residential customers with distributed generation impose net costs on Kansas utilities, a new rate class would only be necessary if those net costs were well outside the range of net costs imposed by other residential customers.

14. In Westar's Motion and Response, Westar makes several arguments for why it believes the Commission should not consider any of the benefits of distributed

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<sup>3</sup> See, e.g., "Maine Distributed Solar Valuation Study," Clean Power Research, prepared for the Maine Public Utilities Commission, March 2015. Available at <https://mpuc-cms.maine.gov/COM.Public.WebUI/Common/CaseMaster.aspx?CaseNumber=2014-00171>; "Massachusetts Net Metering and Solar Task Force: Final Report to the Legislature," Grace, Robert and Michelman, Thomas, Sustainable Energy Advantage, April 27, 2015. Available at <http://www.mass.gov/eea/docs/doer/renewables/final-net-metering-and-solar-task-force-report.pdf>; "Net Metering in Mississippi: Costs, Benefits and Policy Considerations," Synapse Energy Economics, prepared for the Mississippi Public Service Commission, September 2014. Available at <http://www.synapse-energy.com/sites/default/files/Net%20Metering%20in%20Mississippi.pdf>; "Minnesota Value of Solar: Methodology," Clean Power Research, prepared for the Minnesota Department of Commerce, Division of Energy Resources, January 2014. Available at <http://www.cleanpower.com/wp-content/uploads/MN-VOS-Methodology-2014-01-30-FINAL.pdf>; "Nevada Net Energy Metering Impacts Evaluation," Energy and Environmental Economics (E3) Consulting, July 2014. Available at [http://puc.nv.gov/uploadedFiles/pucnv.gov/Content/About/Media\\_Outreach/Announcements/Announcements/E3%20PUCN%20NEM%20Report%202014.pdf?pdf=Net-Metering-Study](http://puc.nv.gov/uploadedFiles/pucnv.gov/Content/About/Media_Outreach/Announcements/Announcements/E3%20PUCN%20NEM%20Report%202014.pdf?pdf=Net-Metering-Study); "Evaluation of Net Metering in Vermont Conducted Pursuant to Act 125 of 2012," Vermont Public Service Department, January 15, 2013. Available at: <http://www.leg.state.vt.us/reports/2013ExternalReports/285580.pdf>.



generation in this generic docket. As discussed above, Staff's stated goal of this proceeding is to determine whether it is necessary to create a new separate rate class for distributed generation customers, and, if so, how that rate class should be structured to allow utilities to recover their just and reasonable costs (see ¶ 1, above). Despite Staff's clear statement of purpose for this docket, Westar makes numerous arguments in which it conflates any analysis of benefits with determining the appropriate compensation for distributed generation customers.

15. For example, Westar argues that consideration of benefits of DG was not among the issues referred to this docket by the Stipulation and Agreement. Westar acknowledges that the parties agreed to defer to this docket the questions of 1) whether a separate Residential Standard Distributed Generation Tariff is necessary, and, 2) if so, "how to structure the Residential Standard Distributed Generation Tariff in order to properly recover just and reasonable costs from customers with distributed generation should be deferred to a generic docket." However, Westar incorrectly assumes that any discussion of benefits would only be relevant to the second inquiry regarding cost recovery. (Westar's Motion and Response, ¶ 6). As explained above, the issue of benefits is also relevant to the first issue of *whether* a separate rate class is even appropriate. The Unopposed Motion for Leave to File Addendum to Stipulation and Agreement Out of Time in Docket 15-WSEE-115RTS clearly states at paragraph 6,

The changes to paragraph 39 simply clarify that the Solar Parties will retain their rights to argue during the generic docket that it is not necessary to establish a different rate for customers with distributed generation, something that the Phase I parties believed was implicit in the initial version of the S&A.

The rights retained by the Solar Parties by the amended stipulation include the right to

argue that a separate rate class is unnecessary due, in part, to the benefits of distributed generation to the utility's system.

16. Westar also correctly states that the rate a utility must pay a distributed generation customer for excess energy is a matter of settled law determined by the Kansas Net Metering and Easy Connection Act. (Westar's Motion and Response, ¶ 8). But confusingly, Westar later argues that the benefits of distributed generation should only be considered when determining "the regulated price a utility is required to pay for energy purchases," even though that regulated price has, as Westar says, already been determined by the Legislature. (Id. at ¶ 11).

17. There is no indication that Staff, when it suggested that the Commission consider the benefits as well as the costs of distributed generation, intended that the Commission should reevaluate utility compensation levels for the excess energy produced by distributed generation systems in this generic docket. TASC is likewise not recommending a reevaluation of compensation levels for distributed generation customers in this docket. Rather, in order to determine whether utilities are recovering their just and reasonable cost of service from distributed generation customers – the stated goal of this docket – it is crucial to determine the actual cost of serving these customers. As discussed earlier, the benefits that distributed generation customers provide to the utility system reduce the utility's actual cost of providing service. It would be neither just nor reasonable to allow a utility to recover through rates more than its actual cost of providing service to customers, plus a reasonable return on investment.

18. Westar further argues in its Motion and Response that it would be unfair for the Commission to consider the benefits of distributed generation in this generic

docket because, if distributed solar generation “provides some external benefits, universal solar would provide those same benefits, albeit at lower costs.” (Id. at ¶ 18). TASC is unfamiliar with the term, “universal solar,” but assumes that Westar is referring to utility-scale solar installations (*i.e.*, large systems that are not co-located with a utility load). Westar seemingly assumes that the only differences between distributed solar systems and utility-scale solar systems are size and cost. It is TASC’s assertion that the decentralized nature of distributed solar (also known as on-site or rooftop solar) provides benefits to the utility and to customers, such as grid resiliency, deferred transmission and distribution infrastructure investments, and reduced line losses, that utility-scale solar cannot provide. However, the Commission need not decide this issue now; rather, it should allow Staff and other intervenors to introduce evidence on the benefits of distributed generation in this docket and not needlessly limit the docket’s scope at the outset.

19. TASC concurs with the list of benefits of distributed generation that are worthy of examination in this proceeding that Staff provided in its Report and Recommendation (pp. 5-6). Those benefits are: avoided energy costs, avoided generation capacity costs, avoided ancillary services and capacity reserve costs, avoided transmission costs, avoided distribution costs, avoided environmental costs, avoided renewables cost, price mitigation benefits, economic development, health benefits, and grid security. TASC suggests adding avoided system losses to the list of benefits that should be explored in this docket. If TASC’s intervention is granted in this docket, TASC’s participation will help the Commission to analyze and quantify these benefits in a rigorous and analytical fashion. TASC’s extensive knowledge and experience with

distributed generation issues will help ensure that any policy guidance the Commission issues in this docket will be based on evidence and sound reasoning.

20. Finally, TASC submits that it is unnecessary to limit the scope of this generic proceeding from the outset, before any discovery has occurred and before any evidence has been introduced. If the Commission decides that a particular benefit of distributed generation should not be considered in the analysis, it can do so based on the evidence at any time during the proceeding or in its order establishing its policy guidance. Evidence on the benefits of distributed generation will not bog down the proceeding; rather, it will ensure that the Commission's analysis is comprehensive and complete. There is no reason for the Commission to tie its own hands at the outset – as Westar would have the Commission do – by limiting the scope of this proceeding to exclude any analysis of the benefits of distributed generation.

WHEREFORE, TASC respectfully requests that the Commission grant its Petition for Intervention in this docket, if the Commission decides to formally open the docket. TASC also requests that the Commission accept the recommendations of Staff contained in Staff's Report and Recommendations regarding the scope of the docket, including the recommendation to fully consider both the benefits and costs of distributed generation in this docket. Finally, TASC requests all other relief to which it is entitled.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing has been served via e-mailed this 11<sup>th</sup> day of April 2016, to:

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