

BEFORE THE KANSAS CORPORATION COMMISSION
OF THE STATE OF KANSAS

IN THE MATTER OF SOUTHERN)
PIONEER ELECTRIC COMPANY FOR)
APPROVAL OF THE CONTINUATION) KCC Docket No. 19-SPEE-240-MIS
OF ITS DEBT SERVICE COVERAGE)
AND 34.5 kV FORMULA BASED)
RATEMAKING PLANS.)

CROSS-ANSWERING TESTIMONY OF

PATRICK ORR

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

May 18, 2020

1 **I. STATEMENT OF QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A. My name is Patrick N. Orr, and my business address is 1500 SW Arrowhead Road, Topeka,
4 Kansas 66604.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Kansas Citizen’s Utility Ratepayer Board (CURB) as a Regulatory
7 Analyst.

8 **Q. Please summarize your professional experience in the utility industry.**

9 A. I have been employed as a rate analysis with CURB since 2019. Since beginning my
10 employment with CURB I have researched and analyzed several utility dockets filed with
11 the Kansas Corporation Commission (KCC or Commission).

12 **Q. Have you previously testified in regulatory proceedings?**

13 A. No, I have not previously testified in regulatory proceedings.

14 **Q. What is your educational background?**

15 A. I have a Bachelor of Business Administration degree in Finance and Personnel
16 Management from Washburn University (1980). I worked for the Kansas Department of
17 Administration for thirty years. In that position, I was responsible for preparing rates for
18 information technology (IT) services in accordance with *Circular A-87 Cost Principles for*
19 *State, Local and Indian Tribal governments.*

20 **II. PURPOSE OF TESTIMONY**

21 **Q. What is the purpose of your Cross-Answering Testimony?**

22 A. The purpose of my cross-answering testimony is to respond to the testimony of Darren

1 Prince of the Kansas Municipal Energy Agency (KMEA) and KCC Staff witness Justin T.
2 Grady.

3 **III. CONCLUSIONS AND RECOMMENDATIONS**

4 **Q. What are your conclusions and recommendations?**

5 A. In general, CURB supports continuing the Formula Based Ratemaking Plan (FBR)
6 framework that the Commission adopted in Docket No. 16-MKEE-023-TAR. CURB is
7 conceptually opposed to KMEA's recommendation that the KCC implement a true-up
8 mechanism for the revenue requirement allocated to Local Access Delivery Service
9 (LADS) customers. CURB generally believes that true-up mechanisms can lessen the
10 incentive for a utility to manage its operations efficiently. Moreover, KMEA recognizes
11 that the Staff's proposal to maintain an equity test in the FBR is an acceptable alternative
12 to the true-up KMEA has proposed. In these regards, CURB supports the modifications
13 proposed by Staff Witness Justin T. Grady. CURB does not oppose KMEA's
14 recommendations that certain timelines contained in the company's protocol be extended
15 to allow intervenors sufficient time to review the FBR proposed by Southern Pioneer.

16 **IV. DISCUSSION OF THE ISSUES**

17 **A. Response to KMEA**

18 **Q. Please describe the recommendations contained in the testimony of KMEA Witness**
19 **Prince.**

20 A. KMEA Witness Darren Prince generally supports continuation of the FBR Plan. However,
21 Mr. Prince recommends that the KCC adopt the following three conditions as part of any
22 approval:

1 1. KMEA recommends that an annual Debt Service Coverage (DSC) true-up should
2 be included in the FBR plan.

3 2. KMEA recommends changes to the FBR Plan Protocols Process Section to extend
4 the procedural schedule to allow for sufficient time for intervenors to review the
5 annual FBR Plan filing.

6 3. KMEA recommends the addition of a Final True-Up Section to the FBR Plan
7 Protocols. This modification ensures a Final True-Up occurs for the annual True-
8 Up.

9 **Q. What is your understanding of Mr. Prince’s rationale for recommending that an**
10 **annual debt service coverage (“DSC”) true-up should be included in the FBR Plan**
11 **for LADS customers?**

12 A. Mr. Prince recommends that a true-up mechanism be included in the FBR Plan, because
13 LADS customers do not have a claim on Southern Pioneer’s equity or dividend
14 distributions. Mr. Prince contends that LADS customers contribute to Southern Pioneer’s
15 success, but they receive no benefit from that success. He further states the true-up will
16 ensure LADS customers only pay costs necessary for Southern Pioneer to meet its required
17 minimum DSC level.

18 **Q. Do you agree with Mr. Prince’s recommendation that an annual debt service coverage**
19 **true-up should be included in the FBR Plan for LADS customers?**

20 A. No, I do not. CURB is generally not supportive of base rate true-ups because true-ups
21 diminish the incentive of a utility to manage its costs efficiently between rate cases. For
22 example, under the current FBR ratemaking mechanism, the company’s rates are evaluated

1 annually to determine if they are sufficient to allow Southern Pioneer to meet a targeted
2 DSC level established by the KCC. Once new rates are established to meet that targeted
3 DSC level, it is up to the utility to manage its operations accordingly. Any shortfalls are the
4 responsibility of the utility and ultimately its shareholders, who are also its retail customers.
5 Thus, the current ratemaking mechanism provides utility management an appropriate
6 incentive to manage utility costs between annual filings. CURB conceptually does not
7 support true-ups because they could eliminate much of the incentive to manage costs
8 appropriately.

9 **Q. In reviewing Mr. Prince's testimony, did you find that Mr. Prince contended that an**
10 **annual true-up is strictly necessary to address KMEA's concerns?**

11 A. On page 9 of this testimony, Mr. Prince recognizes that inclusion of an equity test in the
12 FBR is an acceptable alternative to his true-up proposal. In these regards, KCC Staff
13 witness Mr. Grady recommends that an equity test remain part of the FBR. Thus, if the
14 Commission were to require that an equity test remain part of the FBR, then the equity test
15 should operate to satisfy KMEA's concerns without diminishing the incentive to manage
16 utility costs through the true-up mechanism.

17 **Q. Do you also oppose the final true-up proposed by KMEA Witness Prince?**

18 A. Yes, I do. I recommend the Commission reject Mr. Prince's proposal for the final true-up
19 (discussed on pages 10-11 of his testimony) for the same reasons set forth in my testimony
20 above. A final true-up would be unnecessary if the KCC adopts my recommendation to
21 reject Mr. Prince's proposed annual true-ups.

22 **Q. Do you oppose the changes to the procedural timeline recommended by Mr. Prince?**

1 A. No, I do not. CURB is not opposed to extending the timeline for review of the annual FBR
2 Plan filings. However, in these regards, I would emphasize CURB's support of Mr. Grady's
3 testimony that Southern Pioneer should be required to seek approval of the FBR Plan after
4 the expiration of the five-year term. I will discuss Staff's recommendations next since they
5 correspond to CURB's recommendations pertaining to KMEA's positions.

6 **B. Response to Staff**

7 **Q. Have you also reviewed the testimony of Staff Witness Justin Grady?**

8 A. Yes, I have.

9 **Q. Please summarize the issues raised in Mr. Grady's testimony.**

10 A. As discussed in Mr. Grady's testimony, KCC Staff is generally supportive of continuation
11 of a FBR Plan for Southern Pioneer. However, KCC Staff has three recommendations with
12 regard to the company's filing, as outlined on page 3 of Mr. Grady's testimony. These
13 include:

- 14 1. Rejection of Southern Pioneer's proposal to eliminate an Equity Test in the FBR
15 Plan protocols and templates;
- 16 2. Rejection of Southern Pioneer's proposal to remove the requirement for Southern
17 Pioneer to request explicit Commission approval of the FBR Plan after the
18 expiration of a five year term; and
- 19 3. Rejection of Southern Pioneer's proposed change in the rate design element of the
20 FBR Plan from distribution of annual retail rate changes based on class revenues
21 authorized in the last rate case to the distribution of retail rate changes based

1 specifically on the results of Southern Pioneer's Class Cost of Service (CCOS)
2 study.

3 **Q. Do you have any comments regarding Mr. Grady's recommended modifications to**
4 **the company's filing?**

5 A. Yes, CURB is supportive of the recommendations made by Mr. Grady. First, CURB
6 supports retaining an equity test in the FBR Plan for the reasons set forth above. CURB
7 takes no position on revising the test from 15% to 35% of equity but has no quarrel with
8 Mr. Grady's analysis on that issue.

9 **Q. Do you agree with Mr. Grady's recommendation that if the FBR Plan is extended, it**
10 **should still be subject to KCC review and reauthorization in another five years?**

11 A. Yes, I do. In conjunction with KMEA's proposal to extend the time limitation of the FBR
12 Plan to allow intervenors sufficient time to review the same, CURB believes that the
13 Commission should continue to maintain oversight over any FBR Plan and be subject to
14 periodic reexamination by the KCC. This strategy will ensure that the FBR Plan is
15 continuing to perform as envisioned by the parties resulting in just and reasonable rates.

16 **Q: Do you agree with Mr. Grady's recommendation that annual revenue changes should**
17 **be allocated based on the revenue allocation in the last base rate case?**

18 A. Yes. To CURB's knowledge, it is unusual for the Commission to adopt a specific cost of
19 service study methodology as part of a base rate case. More often, the KCC accepts a
20 revenue allocation that has been agreed to among the parties, especially if a stipulation has
21 been reached. In the case of a fully-litigated proceeding, the KCC may use class cost of
22 service studies as basic guides for revenue allocation, but the KCC also generally examines

1 other factors such as rate gradualism, the specific impacts on customer classes, and other
2 factors. Therefore, while CURB agrees that the FBR adjustments should be allocated based
3 on the revenue allocation adopted in the most recent rate case, how that revenue allocation
4 is determined will depend upon the findings of the KCC in each respective rate case.

5 **Q. Do you have any additional comments regarding Staff’s testimony?**

6 A. Yes, in Section F.3 a. of the proposed protocols that were originally filed by Southern
7 Pioneer, the company proposed that it be permitted to “reduce or defer” a rate increase
8 adjustment resulting from the FBR Plan. The company indicated in response to discover
9 request KPP-4 that this language should be changed to indicate that the company could
10 “forego,” rather than defer, a rate increase adjustment. Staff included this change in Mr.
11 Grady’s testimony. This is an important change, as CURB would oppose any attempt by
12 Southern Pioneer to defer rate adjustments to future periods.

13 **V. SUMMARY**

14 **Q. Please summarize your recommendation regarding the Direct Testimony filed by**
15 **KMEA and KCC Staff.**

16 A. CURB is generally supportive of the continuation of the FBR Plan for Southern Pioneer
17 but opposed to the LADS true-up proposed by KMEA. CURB believes that a true-up
18 mechanism provides the wrong incentives to the utility. CURB does not oppose the
19 procedural modifications requested by KMEA. In addition, CURB is supportive of the
20 recommendations made by Staff Witness Grady in his testimony, including the correction
21 to the protocols identified in the response to KPP-4.

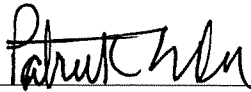
22 **Q. Does this conclude your testimony?**

1 A. Yes, it does.

VERIFICATION

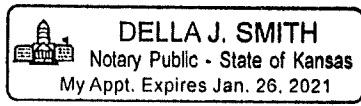
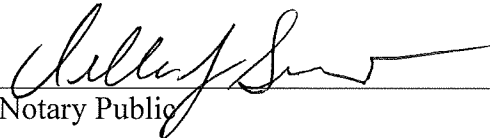
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Patrick Orr, of lawful age and being first duly sworn upon my oath, state that I am a Regulatory Analyst for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Patrick Orr

SUBSCRIBED AND SWORN to before me this 18th day of May, 2020.

Notary Public

My Commission expires: January 26, 2021.

CERTIFICATE OF SERVICE

19-SPEE-240-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 18th day of May, 2020, to the following:

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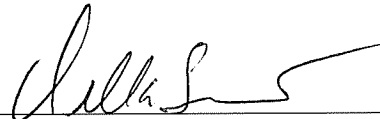
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