

2. On October 5, 2017, intervenor Climate and Energy Project (CEP) filed its Petition for Reconsideration (PFR) of the Final Order. In its PFR, CEP argued that the Commission's reliance on comments in this docket does not conform to the rules of evidence, CEP PFR ¶¶ 1-7, that the record does not support a finding that residential DG usage patterns differ significantly from non-DG customers, *id.* at ¶¶ 8-13, that proponents of the S&A failed to prove that costs to serve DG customers are greater than their non-DG-counterparts, *id.* at ¶¶ 14-23, that proponents

of the S&A failed to prove that residential DG customers are subsidized by residential non-DG customers, *id.* at ¶¶ 24-27, and that the three-part rate is not supported by substantial evidence in the record. *Id.* at ¶¶ 28-33. CEP's PFR is not supported or supportable and should be rejected.

The Commission's order is based on evidence properly in the record.

3. CEP complains that the Commission finding that residential DG customers should be uniquely identified in the ratemaking process is not supported by substantial competent evidence. CEP PFR at ¶1.¹ CEP argues that the Commission's finding is not properly supported because "[t]he support for this finding consists of various comments of parties but the Order cites no testimony or other evidence to buttress the finding."

4. CEP's argument is without foundation and should be rejected.

5. First, all of the materials in the comments cited by the Commission were supported by affidavits that were in turn cited in the comments. And the pages cited by the Commission cited to the affidavits, which were adopted by witnesses at the hearing in this matter and subject to cross-examination, by CEP and others. By citing the comments, the Commission accepted the referenced affidavits that were adopted and supported by witnesses under oath. It is exalting form over substance to suggest that by citing to the comments, the Commission did not also implicitly rely upon the affidavits upon which the comments rested. To the extent any clarification of this point is needed, the Commission can so indicate its intent to rely on the underlying affidavits and related live testimony under oath in its order on reconsideration.

¹ CEP repeats this claim with regard to each subsequent argument. Westar will address this claim only once but the argument applies equally to each other section of this Reply.

6. Second, it should be noted that among the comments cited by the Commission at footnote 8 were comments by CURB witnesses Cary Catchpole and Brian Kalcic. Both were available for cross-examination and the affidavits of both were admitted into the record.

7. Third, to the extent the Commission might have erred by relying on the comments filed in this matter, CEP is not in a position to complain. The procedures used in this docket were based on a proposal by Westar in its Comments in Response to Order Opening General Investigation, at page 4 (May 19, 2017). In that filing, Westar proposed the filing of comments supported by affidavits to be followed by a hearing with testimony under oath and subject to cross-examination. In response to Westar's filing CEP agreed that the docket should include "distribution of documents with affidavits, as well as written comments from the parties," CEP's Comments Regarding How General Investigation Should Proceed, at ¶ 5, and stated that CEP agreed with Westar's proposed schedule "with one caveat." *Id.* at ¶ 7. CEP's sole "caveat" to the schedule was its suggestion that the Commission hold a full-day workshop with a neutral third party. *Id.* Having been involved in developing the procedures used in this docket and having approved of them, CEP cannot now claim they constituted error. *See, e.g., Catholic Housing Services, Inc. v. Department of Social and Rehabilitative Services*, 256 Kan. 470, Syl. at ¶ 1 (1994).

8. Finally, CEP fully participated in the hearings in the case based on the procedural schedule and cross-examined witnesses concerning a portions of comments filed in the docket. *See, e.g.,* Cross-examination of Mr. Martin by Mr. Eye, Tr. at 114, 115, 116, 117-18; cross-examination of Mr. Eichman, Tr. at 299; cross-examination of Mr. Parke, Tr. at 310. Having participated in the hearing and conducted cross-examination based in part on the comments filed by the parties, CEP waived its objections to the use of such comments as evidence in the docket.

The record clearly demonstrates there is a significant difference between the usage patterns of residential DG customers and residential non-DG customers.

9. Based on the analysis presented by CEP witness Gilliam, CEP argues there is no difference between DG and non-DG load characteristics. However, as was demonstrated by the rebuttal testimony of Dr. Faruqui, Gilliam's analysis is fundamentally flawed. As CEP states in its PFR (citing Mr. Gilliam's testimony), the flows of energy to and from residential DG customers are recorded on two separate registers – Channel 1 shows kWh received by the customer from Westar and Channel 11 records kWh received by Westar from the customer. CEP PFR at ¶ 9. However, Mr. Gilliam performed his analysis using only the data from Channel 1 and by comparing mean "consumption" – as measured by Channel 1 – "between non-grandfathered DG ratepayers and non-DG ratepayers." *Id.* at ¶ 11.

10. One of the fundamental flaws in CEP's position is its insistence that "In order to compare the load characteristics of non-DG customers with DG customers, it is necessary to look only at the load placed on the system, i.e. [sic] the energy measured by Channel 1." CEP PFR, at ¶10.² What this ignores is that, from a rate design perspective, what matters is the loads customers place on the system – both positive loads (when the customer consumes more than it generates) and negative loads³ (when the customer generates more than it consumes). *See*, Faruqui Initial Affidavit, at 11, which compares average daily load profiles for small general service, non-DG residential and DG residential customers. In order to assess the impact on the utility system of DG customers who often generate electric energy in excess of their concurrent consumption, it is necessary to look at both receipts of energy by such customers from the utility – the amounts

² A second serious flaw is Mr. Gilliam's reliance on the mean as a basis for comparison between DG and non-DG customers.

³ CEP baldly asserts that the concept of "negative loads" is an oxymoron. CEP PFR at ¶ 12. However, for a utility which must balance generation and load at all times, negative load – when a customer's generation exceeds its use of electricity – is very real and must be addressed in planning and operations.

recorded on Channel 1 – and the deliveries of energy by such customers to the utility – the amounts recorded on Channel 11. Faruqui Rebuttal Testimony in Support of Stipulation and Agreement, at 4. When that comparison is made, as it was in Exhibit Westar-8, the difference between the usage patterns of DG and non-DG customers is clear as day.

11. As Aron Cromwell testified, the purpose of installing solar panels is to reduce consumption of electricity from conventional sources from the grid, Cromwell, Tr. at 375, and CEP’s witness Mr. Gilliam agreed. Gilliam, Tr. at 398. Despite that testimony, CEP suggests that the consumption patterns of DG customers and non-DG customers are consistent with each other. That simply makes no sense and is disproven by Westar Exhibits 7 and 8. Westar Exhibit 7 shows the deliveries of energy by Westar to a sample of DG customers; Westar Exhibit 8 displays their summer and winter load shapes. These exhibits demonstrate that the reduction in consumption of utility-supplied electricity by DG customers results in a significant difference between the consumption patterns of DG and non-DG customers.

Proponents of the S&A were not required to prove the amount of increased costs necessary to serve DG customers.

12. CEP argues that the proponents of the S&A failed to prove that costs to serve DG customer are greater than their non-DG counterparts. That argument is irrelevant to this proceeding because such a finding was not made by the Commission or necessary for the proponents of the S&A to prevail.

13. As the Commission stated in its Order Opening General Investigation in this docket, the Commission has the discretion to consider both the utility’s quantifiable costs and service DG customers and the quantifiable benefits DG customers provide. Order Opening General Investigation, at ¶ 8. Consequently, the Commission stated that in this docket, it would provide the parties “an opportunity to provide evidence showing that costs and benefits can be quantified

and allocated in a manner which will result in just and reasonable rates for DG customers. *Id.* at ¶ 10. The parties made exactly that showing. As Staff witness Dr. Glass indicated, this can be done in a class cost of service in a rate case. Glass, Tr. at 319-20.

Proponents of the S&A proved the existence of a subsidy from non-DG customers to DG customers

14. CEP argues that the proponents of the S&A did not prove the existence of a subsidy from non-DG to DG customers. That argument fails as well.

15. It was uncontested on the record that approximately 75% of Westar's costs do not vary with energy consumption, Faruqui Initial Affidavit, at 6, but only about 12% of those costs are recovered through fixed monthly charges with the balance being recovered through the energy charge under the two-part rate design. *Id.* It was also uncontested that Westar's load research data show that DG installations decrease the amount of utility-provided energy by approximately 49% annually. Faruqui, Tr. at 194-95. Because the residential rate is set to recover the related costs of service from the members of the residential class, those facts alone demonstrate that DG customers do not pay the cost to serve them. Subsidy is clearly demonstrated by loss of revenue from DG customers when costs associated with providing generation and transmission to meet DG customers' needs, distribution to deliver and receive energy at DG customers' locations and customer service associated with their accounts all continue unabated. When rates are set in a rate case, costs associated with – but not recovered from – DG customers are recovered from the residential class as a whole, creating a subsidy from non-DG to DG customers. Martin, Tr. at 80.

16. CEP argues that the proponents of the S&A failed to prove the existence of a subsidy because they did not provide a study on the record. However, as Staff witness Glass testified, showed in its brief in this matter, the existence of a revenue shortfall from residential DG customers is not a mere "hypothetical possibility of under-recovery – because DG customers

reduce their purchases from the serving utility, they will necessarily pay less of the utility's demand costs." Glass, Tr. at 336; *see* Faruqui, Tr. at 201; Eichman, Tr. at 300-01. Unless DG customers are placed in a separate rate class, that shortfall will be recovered from the residential class as a whole in subsequent rate cases, Martin, Tr. at 80, resulting in a subsidy from non-DG to DG customers.⁴

The three-part rate design is supported on the record.

17. CEP claims that the proposal to create a new rate design for DG is based on an assumption that DG customers create more costs than benefits. CEP PFR, at ¶ 29. However, that argument completely misses the mark. The need for a new rate design is not related to costs and benefits related to DG customers (although those will be reflected in any class cost of service study and rate design proposal when three-part rates are proposed for DG customers), it is related to clear difference in use of the utility system. *See* discussion at ¶¶ 9-11 *supra*.

18. The reduction in use by (and revenue from) residential DG customers of energy provided by the utility while the costs to serve remain largely unchanged support the need for a rate design that will recover fixed and demand costs from residential DG customers. CEP unwittingly went to the heart of the issue when it stated "a reduction in revenue is a reduction in existing cost recovery" CEP PFR, at ¶ 31. That is precisely the problem that the implementation of three-part rates is designed to address. As the record shows, the installation of solar generation by residential customers does not significantly reduce their demand. Faruqui Initial Affidavit, at 4 (DG customers reduce their demand by only about 5%). However, under the existing two-part rate structure, the installation of DG does result in a significant "reduction in

⁴ Moreover, as Westar demonstrated in its initial brief in this matter, even though the precise amount of the subsidy is unknown, there is sufficient evidence in the record to estimate the amount of the subsidy. *See*, Initial Brief of Westar Energy, Inc. and Kansas Gas and Electric Company, at 6, 20-21 (Westar estimated the subsidy at approximately \$325 per DG customer per year creating a revenue shortfall from current DG customers of approximately \$200,000.)

existing cost recovery,” resulting in a shift of costs from DG customers to non-DG customers in subsequent rate reviews. The record clearly shows that implementation of three-part rates for DG customers which ensure that they continue to pay for the fixed and demand costs associated with utility service to them is well supported in the record.

WHEREFORE, Westar respectfully requests that the Commission reject the Petition for Reconsideration filed by the Climate and Energy Project and such other and proper relief as may be appropriate.

Respectfully submitted,



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KANSAS GAS AND ELECTRIC COMPANY

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF DOUGLAS) ss.

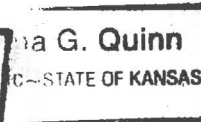
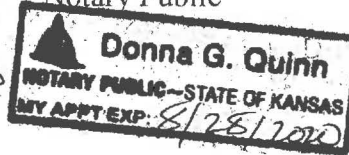
Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that she is familiar with the foregoing **Reply of Westar Energy, Inc. and Kansas Gas and Electric Company to the Petition for Reconsideration of the Climate and Energy Project**; 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 16th day of October, 2017.

Donna G. Quinn
Notary Public

My Appointment Expires: 8/28/2020



CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2017, the foregoing **Reply of Westar Energy, Inc. and Kansas Gas and Electric Company to the Petition for Reconsideration of the Climate and Energy Project** electronically served on all parties of record.

Cathryn Dinges
Cathryn J. Dinges