

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

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

**INITIAL BRIEF OF MIDWEST ENERGY, INC.**

COMES NOW Midwest Energy, Inc. ("Midwest Energy") and, pursuant to the State Corporation Commission of the State of Kansas' ("Commission") February 16, 2017 Order Setting Procedural Schedule, submits its Initial Brief on issues surrounding rate design for distributed generation ("DG") customers. For its Initial Brief, Midwest Energy states as follows:

I. Background

1. On July 12, 2016, the Commission issued its Order Opening General Investigation ("Order")<sup>1</sup> in the instant docket in order to examine various issues surrounding rate design for Kansas DG customers.

2. On February 16, 2017, the Commission issued its Order Setting Procedural Schedule ("Procedural Order") requesting the submission of initial and reply comments by the parties, which were filed on March 17, 2017 and May 5, 2017, respectively.<sup>2</sup> Along with the filing of comments, the Commission directed the parties to provide supporting affidavits, verifying the documents presented, sworn and under oath, subject to Commission questions or discussion.<sup>3</sup> The Procedural Order also provided for roundtable discussions be held among the parties on March 30, 2017 and April 13, 2017.<sup>4</sup>

3. Midwest Energy availed itself of the opportunity to file initial and reply comments and to participate fully in the Commission-ordered roundtable discussions. Further,

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<sup>1</sup> See Order Opening General Investigation (Jul. 12, 2016), at Ordering Clause A.

<sup>2</sup> See Order Setting Procedural Schedule (Feb. 16, 2017), at p. 3; see also Staff Report and Recommendation (Mar. 10, 2016), at p. 7.

<sup>3</sup> Procedural Order, at p. 3.

<sup>4</sup> Id.

Midwest Energy met with the other parties to this proceeding to discuss the potential resolution of issues in this case on June 5, 2017. The majority of the parties were able to reach a settlement on appropriate rate design principles for DG customers, which were memorialized in a Non-Unanimous Stipulation and Agreement (“Settlement”).<sup>5</sup>

4. On June 16, 2017, Staff, Westar, KCP&L, Empire, Southern Pioneer, Midwest Energy, Sunflower, Mid-Kansas and KEC (collectively, the “Settling Parties”) filed a Joint Motion seeking Commission approval of the Settlement. Testimony in support of the Settlement was filed by interested Settling Parties on June 20, 2017. Also on June 20, 2017, testimony in opposition to the Settlement was filed by CURB, Cromwell and CEP (the “Opposing Parties”). Both Brightergy and United Wind, while not signatories to the Settlement, indicated they do not oppose the Settlement. On June 26-27, 2017, an evidentiary hearing was held by the Commission.

5. As a self-regulated electric cooperative public utility under K.S.A. 66-104d, Midwest Energy appreciates the other parties' accommodation of its positions on various DG-related issues, despite the fact that it is no longer rate regulated by the Commission. As a self-regulated cooperative, however, Midwest Energy's rates could come into question before the Commission upon a petition signed by 5% of Midwest's total customers, or 3% of the customers from any one rate class.<sup>6</sup> Because Midwest Energy's rates could be subject to Commission scrutiny, it is important to Midwest that it adhere, to the extent practicable, to the Commission's myriad policy pronouncements on rate-related issues so that it is not required to unwind complex rate structures already in use. Further, Midwest Energy believes it is best for the state of Kansas if its rate structures are generally consistent with those of the regulated utilities. Finally,

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<sup>5</sup> See Non-Unanimous Stipulation and Agreement (Jun. 16, 2017).

<sup>6</sup> See K.S.A. 66-104d(f).

Midwest Energy believes its experience as a self-regulated cooperative in both cities and rural Kansas allows it to contribute meaningful discuss to the issue of distributed generation.

## II. Midwest Energy's Position

6. With regard to Midwest Energy's experience with DG and DG customers, Midwest currently has 42 DG units connected on its system, 21 of which are operational. Of the 21 operating DG units, 8 are wind and 13 are solar. Further, 6 units are connected as parallel generators, 13 are net metered, and 2 are under special contract. Of the 13 net metered, 3 are wind and 10 are solar. Midwest has 12 residential customers with operating distributed generation and 13 not operating, and 9 commercial customers with operating distributed generation and 8 that are not.<sup>7</sup>

7. Midwest Energy's general position regarding DG consists of four overarching principles; namely:

- A. All customers should be on a three-part rate, which includes both DG and non-DG customers.

8. A three-part rate adds a demand component to the current traditional fixed and variable charge rate structure. A three-part rate is desirable because it sends a better price signal to the utility and its customers, it avoids discriminatory rate treatment among customers in the same rate class, and it promotes cost-base rates.<sup>8</sup> Because Midwest Energy believes all customers should be served on a three-part rate, Midwest does not subscribe to the concept that a separate rate class or subclass is required for DG customers. First, most costs of providing utility service to DG customers are very similar to costs traditionally incurred to serve non-DG customers. Designation as to costs being “fixed” or “variable” would be the same for both groups and should be consistent with long-standing cost of service principles. Next, because DG

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<sup>7</sup> Reply Comments of Midwest Energy, Inc. (May 5, 2017), at pp. 1-2 ("MWE's Reply Comments").

<sup>8</sup> Id. at p. 2.

by definition includes multiple technologies with different generator output characteristics, crafting a DG tariff appropriate for a variety of DG technologies is difficult. Additionally, creating a separate rate class without sufficient justification is problematic in the long term as the utility and the Commission are then faced with the dilemma of phasing out or modifying rate components without burdening other customers. Finally, because existing rate schedules already accommodate a wide range of end users and load shapes, separate rate treatment for DG customers is neither necessary nor advisable.<sup>9</sup>

B. Rates should be cost based.

9. All rates should be designed to more closely align fixed charges with fixed costs and align variable charges with variable costs. While the phrase “cost causers should be the cost payers” is a customary expression in the utility industry, traditional rate designs overly depend on variable charges. As a result, significant fixed costs are collected via a variable charge. This mismatch in cost causation versus cost recovery is not economically efficient. Improper price signals can lead to sub-optimal resource allocation and subsidization.<sup>10</sup> A cost of service study is sufficient for setting rates and it also adequately captures both quantifiable costs and quantifiable benefits of DG. Further, a cost of service study will account for load characteristics of DG customers. Load characteristics are a major driver of cost allocations such that costs and benefits (*i.e.*, cost avoidance) will be handled appropriately within the ratemaking framework historically utilized by the Commission and most regulatory commissions around the country. Additionally, the use the utility's most recent cost of service study, coupled with Automated Metering Infrastructure ("AMI") data, shows how customers are behaving, which allows the utility to not only determine quantifiable costs (and benefits) of DG, but also to allocate costs appropriately among its customers. Indeed, Midwest Energy's AMI system provides customer-specific data

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<sup>9</sup> Id. at p. 3.

<sup>10</sup> Id. at p. 2.

that will enable rate designs for residential customers that can incorporate time and demand elements in addition to total kilowatt-hours used.<sup>11</sup>

- C. Because rates should be cost based, externalities should not be considered in DG rate design.

10. Externalities include avoided environmental costs, avoided renewables costs, price mitigation benefits, economic development, health benefits, and grid security, among other societal benefits. Such costs are speculative at best and largely unquantifiable for purposes of rate setting. Midwest Energy believes it best to table consideration of these categories pending future Legislative direction or development of consensus within the industry.<sup>12</sup>

- D. This general investigation should result in guidance for the utilities for developing DG rate design, not prescriptive mandates.

11. In the context of this general investigation docket, Midwest Energy maintains the Commission should allow the parties flexibility in their specific rate design proposals; in other words, the Commission should refrain from adopting a prescriptive, one size fits all approach among all the utilities.<sup>13</sup> Rather, the Commission should encourage and allow experimentation and innovation. Given rates and allocations will be examined at the utility's next rate case, there is little harm to the Commission or customers in considering the gamut of DG rate design proposals.<sup>14</sup>

### III. Non-Unanimous Settlement Agreement

12. The terms of the Settlement reached by the majority of the parties in this case comport with Midwest Energy's position. Recognizing that a three-part rate more appropriately recovers the costs of providing service to DG customers, paragraph 11(a) of the Settlement

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<sup>11</sup> Initial Comments of Midwest Energy, Inc. (Mar. 17, 2017), at p. 6 ("MWE's Initial Comments").

<sup>12</sup> MWE's Reply Comments, at pp. 3-4.

<sup>13</sup> Id. at ; see also, MWE's Initial Comments, at p. 7.

<sup>14</sup> See, e.g., "Distributed Energy Resources Rate Design and Compensation" manual prepared by the National Association of Regulatory Utility Commissioners (NARUC) as formally adopted in its November 16, 2016 Annual Meeting, at pp. 97-126.

addresses a rate design option which provides for a customer charge, demand charge, and energy charge.<sup>15</sup> While Midwest Energy believes a three-part rate is the best option based on its own operational characteristics, there may be other appropriate rate design options which fairly and equitably recover costs attributable to DG customers, which the Settlement likewise recognizes. The provision for cost-based rates is addressed in paragraph 13 of the Settlement, which correctly notes that any unquantifiable value of resource approach should not be considered when setting rates.<sup>16</sup> In this regard, the Settlement also notes that a class cost of service study provides sufficient support for designing a DG tariff, and no further study is necessary for the purpose of this docket.<sup>17</sup> Further, to the extent the Commission finds it appropriate to order a value of resource study (*i.e.*, cost-benefit analysis) in a future docket, paragraph 14 of the Settlement defines the scope of such study.<sup>18</sup> Finally, allowing for flexibility in the DG rate designs proposed by specific utilities is addressed in paragraph 11 of the Settlement.<sup>19</sup>

13. Further, given the Settling Parties' initial and reply comments, the Settlement itself, the testimony in support of the Settlement, and testimony at hearing, the record contains substantial and competent evidence to support approval of the Settlement. Moreover, the policies detailed in the Settlement: (1) provide for rate design alternatives that adequately address the cost and benefits of DG; (2) provide direction as to how such rate alternatives would be developed and/or supported; (3) do not preempt the Commission's jurisdiction and/or authority to approve rates for the rate-regulated utilities; and (4) ensure customer education. At the same time, the Settlement provides important flexibility that will allow any future rate proposals to be developed specific to the utility, reflective of its characteristics, capabilities, perceived need, and customer needs/preferences, among other factors. This includes the potential

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<sup>15</sup> Settlement, at p. 4.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

that a utility may choose to not evaluate DG customers separately if data is not adequate, or may decide to evaluate separately in the cost of service but not develop separate rates.

#### IV. Conclusion

14. To conclude, Midwest Energy appreciates the opportunity to participate in this docket. Further, Midwest Energy commends the parties for their efforts to work with all of the stakeholders, each of whom have their own distinct interests in the issues surrounding rate design for DG customers. Importantly, Midwest Energy believes this docket should provide guidance to the utilities for developing DG rate design, not result in prescriptive mandates. Ultimately, each utility should be permitted to propose company-specific tariffs based on the characteristics unique to its own system, but in accordance with the guidance provided by the Commission in this docket. Although non-unanimous, Midwest Energy believes the Commission has before it a Settlement which reflects a comprehensive framework for the utilities in Kansas to develop and implement DG rate design, and Midwest urges the Commission to approve it.

WHEREFORE, Midwest Energy, Inc. respectfully submits its Initial Brief in support of the Settlement filed herein.

*/s/ Susan B. Cunningham*

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**VERIFICATION**  
**(K.S.A. 53-601)**

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SHAWNEE    )

I, Susan B. Cunningham, being of lawful age, hereby state that I have caused the foregoing Initial Brief of Midwest Energy, Inc. to be prepared, that I have read and reviewed the Initial Brief, and that the contents thereof are true and correct to the best of my information, knowledge and belief.

*/s/ Susan B. Cunningham*

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Susan B. Cunningham

Executed on the 21st day of July, 2017

**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing Initial Brief of Midwest Energy, Inc. was electronically served on this 21st day of July, 2017, to the persons appearing on the Commission's service as last modified on June 20, 2017.

*/s/ Susan B. Cunningham*

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Susan B. Cunningham