

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

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

**INITIAL POST-HEARING BRIEF
OF KANSAS CITY POWER & LIGHT COMPANY**

ROBERT J. HACK (KS #12826)
Telephone: (816) 556-2791
ROGER W. STEINER (KS #26159)
Telephone: (816) 556-2314
Kansas City Power & Light Company
One Kansas City Place
1200 Main Street – 19th Floor
Kansas City, Missouri 64105
Facsimile: (816) 556-2110
E-mail: rob.hack@kcpl.com
E-mail: roger.steiner@kcpl.com

GLEND A CAFER (KS #13342)
Telephone: (785) 271-9991
TERRI PEMBERTON (KS #23297)
Telephone: (785) 232-2123
CAFER PEMBERTON LLC
3321 SW 6th Avenue
Topeka, Kansas 66606
E-mail: glenda@caferlaw.com
E-mail: terri@caferlaw.com

**COUNSEL FOR
KANSAS CITY POWER & LIGHT COMPANY**

TABLE OF CONTENTS

I.	INTRODUCTION AND PROCEDURAL HISTORY	1
II.	BACKGROUND	3
III.	NON-UNANIMOUS SETTLEMENT AGREEMENT.....	6
A.	Terms of the S&A	7
B.	Standard of Review	16
C.	Commission Factors	17
	<i>(a) Whether each party had an opportunity to be heard on reasons for opposing the settlement.</i>	<i>17</i>
	<i>(b) Whether the settlement is supported by substantial competent evidence in the record as a whole.</i>	<i>18</i>
	<i>(c) Whether the settlement conforms to applicable law.</i>	<i>18</i>
	<i>(d) Whether the settlement will result in just and reasonable rates.</i>	<i>19</i>
	<i>(e) Whether the results of the settlement are in the public interest.</i>	<i>19</i>
IV.	CONCLUSION	19

Kansas City Power & Light Company (KCP&L or Company) hereby submits its *Initial Post-Hearing Brief* (Brief) in compliance with the State Corporation Commission of the State of Kansas' (Commission or KCC) *Order Setting Procedural Schedule*, issued February 16, 2017 (Procedural Order).¹ For its Brief, KCP&L states the following:

I. INTRODUCTION AND PROCEDURAL HISTORY

1. On March 11, 2016, Commission Staff (Staff) filed a Motion to Open Docket (Staff Motion) with supporting Report and Recommendation (R&R) requesting the Commission initiate this investigatory docket to explore rate design considerations with regard to distributed generation (DG) customers.² Staff explained that its request stemmed from the last general rate proceeding of Westar Energy, Inc./Kansas Gas and Electric Company (Westar), Docket No. 15-WSEE-115-RTS (15-115 Docket), wherein the Commission issued its *Order Approving Stipulation and Agreement*, directing Staff to outline specific issues to discuss, research, and evaluate in a general docket proceeding with regard to DG, and to coordinate with the 15-115 Docket parties and other Kansas-jurisdictional public utilities on issues to be addressed in the general docket.³

2. On July 12, 2016, the Commission granted Staff's request and issued its *Order Opening General Investigation* (Order). The Commission ordered the parties to the docket "to file comments on how the general investigation should proceed to

¹ Upon request by the parties, the Prehearing Officer modified the procedural schedule on May 19, 2017, to accommodate a change in the settlement and prehearing conference dates. However, the briefing schedule was unchanged.

² Staff Motion, ¶ 3.

³ Staff Motion, ¶ 1.

minimize the need for extensive comment periods.”⁴ The comments were to be filed within 45 days of the date of the Order.⁵

3. The following parties sought and were granted intervention in this matter, or otherwise filed entries of appearance: Westar, Empire District Electric (Empire), KCP&L, Sunflower Electric Corporation and Mid-Kansas Electric Company, (Sunflower and Mid-Kansas respectively), Southern Pioneer Electric Company (Southern Pioneer), Kansas Electric Cooperatives, Inc. (KEC), Midwest Energy, Inc. (Midwest Energy), the Citizens’ Utility Ratepayer Board (CURB), International Brotherhood of Electrical Workers, Local 304 (IBEW), Cromwell Environmental, Inc. (Cromwell), the Alliance for Solar Choice (Alliance), Brightergy, LLC (Brightergy), Climate and Energy Project (CEP), and United Wind, Inc. (United Wind).

4. On, February 16, 2017, following receipt of comments, the Commission issued its Procedural Order requiring parties to file initial comments with supporting affidavits by March 17, 2017, and reply comments with supporting affidavits by May 5, 2017. The Procedural Order also established two roundtables for discussions among the parties, which were held on March 30, 2017, and April 13, 2017.

5. On April 28, 2017, the parties filed a Joint Motion to Modify Procedural Schedule, asking the Commission to convert the prehearing conference scheduled for June 5, 2017, into a settlement conference to give the parties the opportunity to meet and discuss settlement. On May 19, 2017, the Prehearing Officer issued his Order Modifying Procedural Schedule, approving the establishment of the settlement conference.

⁴ Order, Ordering Clause D.

⁵ *Id.*

6. On June 5, 2017, the parties met in person and by phone to discuss potential settlement of the various issues in the docket. After lengthy discussion that continued into the following week, a majority of the parties reached a Non-Unanimous Stipulation and Agreement (S&A) that was subsequently filed with the Commission on June 16, 2017.⁶ The parties to the S&A are: Staff, Westar, KCP&L, Sunflower and Mid-Kansas, Southern Pioneer, KEC, Midwest Energy, Empire, Brightergy,⁷ United Wind,⁸ and IBEW (referred to collectively as the Signatories).

7. The parties in opposition to the S&A are Cromwell and CEP. CURB also opposes the S&A but on a limited basis concerning portions of Paragraph 13 of the S&A.⁹

8. On June 20, 2017, the following parties filed testimony in support of the S&A: Westar, KCP&L, Southern Pioneer, and Staff.

9. Also on June 20, 2017, the following parties filed testimony in opposition to the S&A: CURB, CEP, and Cromwell.

10. On June 27-28, 2017, the Commission conducted its evidentiary hearing in this matter, where it heard from the various parties in support of and in opposition to the S&A.

II. BACKGROUND

11. As noted previously, this investigatory proceeding was initiated as an off-shoot of Westar's last general rate proceeding in the 15-115 Docket. In that docket, the

⁶ On June 16, 2017, the parties to the proceeding filed a joint List of Contested Issues, and an Order of Parties and Witnesses for Evidentiary Hearing.

⁷ Brightergy is not a signatory to the Non-Unanimous S&A but does not oppose its terms.

⁸ United Wind is not a signatory to the Non-Unanimous S&A but does not oppose its terms.

⁹ Tr. Vol. 1, p. 61.

Commission approved a settlement that provided for the initiation of a generic investigatory proceeding to address whether a separate residential DG tariff was necessary, and if so, how it should be structured to ensure proper cost recovery from DG customers.¹⁰

12. KCP&L has extensive knowledge of Distributed Energy Resources¹¹ (DER) by virtue of its KCP&L and KCP&L-Greater Missouri Operations Company (“GMO”) efforts, and viewed the Commission’s initiation of this proceeding as timely in light of the increasing deployment of DER initiatives in the Company’s service territories.¹² As part of its experience with DER, as well as from basic industry literature on the issue, KCP&L understands that under the existing two-part rate structures traditionally employed for residential customers, there is a lack of alignment between costs and rates as relates to DER deployment, creating problems for customers and utilities alike.¹³ Because of its knowledge of DER, and the increasing levels of DER customers in its service territories, KCP&L believes now is the time to address DG-related cost of service and rate design issues before more customers take service under rate design structures that are not equipped to properly and fairly address the demands of DER loads.¹⁴ KCP&L believes that customer satisfaction in the long run will be greater when DER customers are placed on the appropriate rate design structure at the time they deploy DER initiatives, rather than switched to an alternative structure at a later date.

¹⁰ Motion to Open Docket, Staff Report and Recommendation, pp. 3-4, filed Mar. 11, 2016.

¹¹ Distributed Generation (DG) is a Distributed Energy Resource (DER). The terms are related, but DER is more broad, including other technologies such as batteries, fuel cells, micro-turbines, and combine heat & power systems. For the purposes of this docket and Brief, the terms are used somewhat interchangeably.

¹² Initial Comments of Mr. Bradley D. Lutz, pp. 4-5, filed Mar. 17, 2017 (KCP&L’s Initial Comments).

¹³ KCP&L’s Initial Comments, p.23.

¹⁴ Id. at 4.

13. In fact, KCP&L goes one step further and notes that the inadequacies of the two-part rate structure are not limited to DG residential customers; rather, those inadequacies are merely exacerbated by the DG customers. A case in point is the analytical results of KCP&L's 2015 class cost of service study. In that study, KCP&L noted that approximately 86% of the costs to serve KCP&L's residential customers are fixed customer and demand-related infrastructure costs.¹⁵ These are costs that occur regardless of whether the customer uses a single kWh of energy.¹⁶ The study further showed that roughly only 14% of those customer- and demand-related costs are driven by the cost of energy produced.¹⁷ However, when a customer pays their bill, only 10% of the bill pays directly for these service-related fixed costs.¹⁸ The remaining 90% of the residential customer bill is associated with the energy used by the customer.¹⁹ The recovery of the majority of fixed costs being recovered through a variable component is a fundamental mismatch of costs to revenues.

14. This mismatch is exacerbated when a customer installs net metering, because they have the potential to offset all or part of their load, avoiding these fixed costs all together.²⁰ In other words, a net metering customer with zero monthly net energy consumed (and those with net energy delivered to the energy grid) do not buy any kWhs from the utility.²¹ Therefore, they do not pay for the utility grid services, even though they continue to use those services.²² This results in non-DG customers being left

¹⁵ Id. at 22.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 22-23.

¹⁹ KCP&L's Initial Comments, p.23.

²⁰ Id.

²¹ Id.

²² Id.

to cover the fixed costs being incurred to serve DG customers but not being paid for by DG customers.

15. KCP&L views this as a fundamental pricing problem that can be resolved with appropriate cost of service and rate design applications. In this proceeding, the parties explored various methods of gathering DG customer load data and alternative rate designs that can remedy the misalignment between costs and rates. The proposed S&A incorporates those discussions and allows the requisite flexibility needed to accommodate the diversity of the DG penetration levels among the various utilities, as well as gives consideration to the assorted issues facing cooperative versus the investor-owned utility (IOU).

16. The S&A also makes clear that a class cost of service study is sufficient to support the development of an alternative rate design, and that no additional studies are needed for the purposes of this docket.²³ As will be discussed in greater detail below, parties raised concerns in comments and at hearing with regard to the costs and inputs associated with the development of value of resource studies, and even the cost-benefit analysis posited by CURB, especially in light of the somewhat limited level of DG deployment currently in existence in Kansas.

III. NON-UNANIMOUS SETTLEMENT AGREEMENT

17. While some opponents of the S&A argue that the flexibility contained in the agreement is so vast that it effectively does little more than allow the utilities to do

²³ Agreement, ¶ 13.

what they are already able to do absent the agreement,²⁴ such argument discounts the real value of the S&A.

18. As noted at hearing, Commission approval of the S&A will provide utilities with assurance that certain types of DG rate designs are appropriate to include in subsequent rate cases.²⁵ By recognizing in this proceeding that the standard two-part rate design is ineffectual for addressing the DG customer's use of the grid, the Commission is eliminating that issue as a potential point of litigation in future rate cases. Rather, the Commission will be able to focus on the *level* as opposed to the *structure* of the rates. Stated otherwise, the Commission will not have to determine, for example, whether a 3-part rate²⁶ consisting of a customer, demand, and energy component is appropriate for DG customers, but rather, will determine the appropriate amount of the customer, demand, and energy charges. As was made clear at hearing, a utility bringing forth such a proposal will still have to establish that the rate design being proffered will result in just and reasonable rates, but the utility will not have to first justify its introduction of something other than a two-part rate design.

A. Terms of the S&A

19. Paragraph nine (9) of the S&A provides that DG customers should be uniquely identified within the ratemaking process in order to better capture their differing usage characteristics and allow utilities to create separate residential classes or sub-

²⁴ Tr. Vol. 1, p. 64.

²⁵ Testimony in Support of Settlement Agreement of Bradley D. Lutz, p. 7, filed Jun. 20, 2017 (Lutz in Support of Agreement).

²⁶ A three-part rate is but one example of an alternative to the ineffectual, traditional two-part rate. See, *Distributed Energy Resources Rate Design and Compensation, Section V. Rate Design and Compensation: Mechanisms and Methodologies*, prepared by the National Association of Regulatory Utility Commissioners (NARUC) pp. 97-142 (NARUC Manual). The Commission took administrative notice of the NARUC Manual as a preliminary matter at the evidentiary hearing in this docket. Tr. Vol. 1, pp. 23-24.

classes for DG customers with their own rate designs. This term of the S&A also provides exemptions to accommodate the difference between cooperative utilities and IOUs, as well as the varying levels of current DG deployment among the utilities.

20. From KCP&L's perspective, the unique identification of DG customers will allow it to capture and study the load characteristics of these customers so that an appropriate rate structure can be designed that reflects the true costs DG customers place on the system. Unique identification will also allow the DG customers an opportunity to be expressly assigned reductions in costs or other benefits deemed as resulting from DG deployment.²⁷ This will provide a clearer view of the impact of DG and help prevent the class subsidization that is currently being experienced between DG and non-DG customers.²⁸

21. Cromwell and CEP are opposed to this provision. Their position on this issue is that the DG customer load characteristics are similar to other residential customers and as such, they do not need to be uniquely identified.²⁹ This argument does not address the fact that DG customers have the unique ability to pass energy back to the energy grid. However, despite that fact, there is no harm that befalls the DG customers from placing them in a separate class or subclass. As was noted at hearing, just because DG customers are placed into a separate class or subclass for the purpose of a class cost of service study does not necessitate that their rates will differ from other residential

²⁷ Tr. Vol. 1, Martin, p. 107.

²⁸ Lutz in Support of Agreement, pp. 5, 8; Tr. Vol. 1, Martin, p. 92, lns. 4-10.

²⁹ Testimony of Climate & Energy Project Addressing Non-Unanimous Settlement, p. 7, filed Jun. 20, 2017 (CEP in Opposition); Tr. Vol. 1, p. 64, lns. 24-25 through p. 65, lns. 1-3.

customers.³⁰ Arguably, if the study supports a DG rate similar to other residential customers, then it is possible that the utility will make such a proposal.

22. KCP&L views the unique identification of DG customers in the cost of service study as a mechanism to gather the necessary data to gain a better understanding of the demands the DG customers may be placing on the system and encourages the Commission to support the gathering of such information. Unless the unique identification is made within the class cost of service study, all DG related detail will be co-mingled with the broad, Residential class and lost from view.

23. Paragraph ten (10) of the S&A merely notes that the current two-part residential rate design is problematic for utilities and customers alike. As noted previously, it is apparent how DG customers can avoid the payment of fixed costs thereby pushing the responsibility for those costs to other non-DG customers. While Cromwell and CEP argue that the two-part rate has not been shown to be problematic,³¹ this argument belies the comments of the parties to this proceeding, as well as industry publications.³² As noted in the NARUC Manual, DER can result in revenue erosion for the utility and cost shifting among the customers – issues that are being discussed across the country.³³

24. The argument that the two-part rate has not been shown to be problematic also belies Mr. Cromwell's testimony at hearing where, after a confusing discussion with Westar counsel regarding consumption of kWhs, he admitted that in some instances DG

³⁰ Tr. Vol. 1, p. 47.

³¹ Tr. Vol. 1, p. 71; Reply Comments of Cromwell Environ., Inc., pp. 1-4, filed May 5, 2017 (Cromwell's Reply Comments).

³² KCP&L's Initial Comments, p. 23; Westar's Initial Comments, pp. 2-4; Westar's Reply Comments, p. 4; Reply Comments of Brian Kalcic On Distributed Generation Rate Design Alternatives for The Citizens' Utility Ratepayer Board, p. 4 (Kalcic's Reply Comments).

³³ NARUC Manual, pp. 63-67.

customers can actually consume more energy after installing solar systems than they did prior to installation.³⁴ Mr. Cromwell acknowledged there is a correlation between usage and demand, and that utilities must build their systems to accommodate peak demand, but then he attempted to dispute any notion that solar customers are likely creating a greater demand on the system than they did prior to installing solar initiatives.³⁵ One must acknowledge that the sun does not shine all of the time. Therefore, increased loads experienced after installation of solar systems must periodically be served, in its entirety, by the utility. This greater demand leads to greater fixed costs as utilities must respond to cover the greater demand. As DG customers avoid the fixed costs by offsetting the monthly kWh, this leaves the non-DG customers with yet greater fixed costs.

25. Upon recognizing that the two-part rate is inadequate to accommodate DG initiatives, it is necessary to identify appropriate alternatives to be used in lieu of the two-part rate. Paragraph eleven (11) of the S&A offers three specific design alternatives that the Signatories agree can remedy the fundamental problems associated with the two-part rate, yet it does not preclude the introduction of other appropriate alternatives. The enumerated alternatives, in addition to other appropriate design alternatives, were identified in the NARUC manual³⁶ as options for Commissions across the country to consider in addressing the inherent problems associated with DER. While CEP and Cromwell oppose this provision of the S&A, it is instructive to note that no party to this proceeding objected to KCP&L's motion for official notice to be taken of the NARUC Manual, nor did any party object at hearing when the introduction of the Manual was

³⁴ Tr. Vol. 2, Cromwell, pp. 375-78.

³⁵ Tr. Vol. 2, Cromwell, pp. 385-86.

³⁶ Tr. Vol. 2, Lutz, p. 257.

taken up as a preliminary matter.³⁷ Therefore, CEP and Cromwell’s objection to this provision is based on their position that the Commission should wait until a future date to adopt a particular rate design, and not whether the rate designs articulated could serve as appropriate options. However, as noted by Dr. Glass at hearing, it makes sense for utilities to implement rate designs such as a three-part rate at the early stages of DG deployment, which is where the utilities in Kansas are situated.³⁸

26. No party to the proceeding took exception with paragraph twelve (12) of the S&A that requires customer education programs be implemented as soon as possible after the approval of a new residential private DG rate structure, and as such, KCP&L will not belabor this issue.

27. As to paragraphs thirteen (13) and fourteen (14) of the S&A, this Commission has historically found that rates should be cost-based, and that it will not consider unquantifiable costs when setting rates³⁹ and, therefore, these provisions of the S&A are consistent with established Commission practice. Underlying the basis for cost-based rates is the concept that “[t]he touchstone of public utility law is the rule that one class of consumer shall not be burdened with costs created by another class,”⁴⁰ and “[i]f the Commission is convinced that a rate structure in fact imposes on one class costs created by another, the rate structure cannot withstand the test of *Jones*.⁴¹

28. The Commission has recently had opportunity to evaluate whether societal benefits should be considered in setting rates and, consistent with its previously

³⁷ Tr. Vol. 1, pp. 23-24.

³⁸ Tr. Vol. 2, Glass, p. 346.

³⁹ Tr. Vol. 1, Martin, p. 108.

⁴⁰ See *Jones v. Kansas Gas & Elec.*, 222 Kan. 390, Syl. ¶ 14, 565 P.2d 597 (Kan. 1977) (“*Jones*”).

⁴¹ See *Midwest Gas Users Assoc. and Seymour Foods v. State Corp. Comm’n*, 3 Kan. App. 2d 376, 391, 595 P.2d 735 (1979) (“*Midwest Gas Users Assoc. and Seymour*”).

established policy, declined to do so.⁴² “Where the KCC rules in a manner inconsistent with a previous decision, the law requires the commission to explain its change in position.”⁴³ With this background in mind, the Signatories agreed that in the event the Commission should order a value of resource study in a future proceeding, that the study not only be utility-specific and occur within a utility specific rate case docket, but that it only include quantifiable market-based costs and benefits to the utility.

29. In its Verified Initial Comments filed in this proceeding on March 17, 2017 (Staff’s Initial Comments), Commission Staff identified both market based and non-market based costs,⁴⁴ and stated that the non-market based costs are harder to quantify. It is important to make the distinction between these cost types because, while CURB advocated for a cost-benefit study to be done in addition to a cost of service study in order to identify the benefits of DG, CURB’s witnesses did not endorse the use of avoided non-market based costs. CURB only advocated for the more easily identified avoided market based costs such as Avoided Energy Costs, Avoided Generation Capacity Costs, Avoided Ancillary & Capacity Reserve Services, Avoided Transmission Costs, and Avoided Distribution Costs, as identified by Staff.⁴⁵

⁴² See, Docket No. 16-KCPE-160-MIS, *In the Matter of Kansas City Power & Light’s Application to Deploy and Operate its Proposed Clean Charge Network*, Order Denying KCP&L’s Application for Approval of its Clean Charge Network Project and Electric Vehicle Charging Station Tariff, issued Sept. 13, 2016 (16-160 Order), following policy set in Docket No. 08-GIMX-441-GIV, *In the Matter of a General Investigation Regarding Cost Recovery and Incentives for Energy Efficiency Programs*, Final Order, ¶ 89, issued Nov. 14, 2008, (08-441 Order); Docket No. 08-GIMX-442-GIV, *In the Matter of a General Investigation Regarding Benefit-Cost Analysis and Program Evaluation for Energy Efficiency Programs*, Order Following Collaborative, ¶¶ 70-79, issued Nov. 14, 2008 (08-442 Order); and Docket No. 12-GIMX-337-GIV, *In the Matter of a General Investigation of Energy-Efficiency Policies for Utility Sponsored Energy-Efficiency Programs*, Order, ¶ 15, issued Mar. 6, 2013 (12-337 Order).

⁴³ *Western Resources, Inc. v. State Corp. Com’n. of State of Kan.*, 30 Kan.App.2d 348, 360 42 P.3d 162, 172 (Mar. 8, 2002).

⁴⁴ Staff’s Initial Comments, p. 3.

⁴⁵ Notice of Filing of CURB’s Initial Comments, Attachment A, pp. 13-14, ¶ 19, filed Mar. 17, 2017 (CURB’s Initial Comments), Tr. Vol. 2, Kalcic, p. 281-282.

30. However, Cromwell and CEP advocate for the inclusion of avoided non-market based costs such as Avoided Environmental Costs, Avoided Renewable Costs, Price Mitigation Benefits, Economic Development, Health Benefits, and Grid Security when determining the benefits of DG.⁴⁶ As noted previously, the Commission has declined to include these types of considerations in setting rates, and as such the Commission should decline the invitation to require such a study be conducted.

31. Further, in Staff's Initial Comments, Staff witness Dr. Glass explained additional issues with identifying benefits of solar. With regard to determining avoided generation capacity, Dr. Glass noted that there are two methods of estimating these costs – the market value of capacity, and estimating the costs of operating the marginal generator – but both have their issues.⁴⁷ Dr. Glass noted that Staff's position in recent energy efficiency dockets has been to use the avoided cost of capacity in the SPP footprint, which is currently 49%, but this has proved to be a contentious approach.⁴⁸ However, estimating the amount of capacity that distributed generation should be credited with is equally contentious, and Dr. Glass identified two notable problems with attempting to calculate the estimate. First is the fact that distributed generation is intermittent, and even as more DG capacity is added to the grid, this problem is never resolved.⁴⁹ The second problem Dr. Glass finds with attempting to calculate the estimate is that DG capacity "must be aggregated and large enough to be measured in order to create capacity value. Otherwise, distributed generation is primarily noise on the grid."⁵⁰

⁴⁶ Tr. Vol. 2, p. 423-424.

⁴⁷ Staff Initial Comments, p. 15.

⁴⁸ Id. at 16.

⁴⁹ Id.

⁵⁰ Id.

32. Dr. Glass also discussed concerns and issues related to quantifying avoided transmission and distribution costs, and while too lengthy to restate here, it is apparent that doing so is extremely complex and costly.⁵¹ In filed comments and at hearing, Dr. Glass noted the benefit of conducting a cost-benefit study in addition to a cost of service analysis, is likely far outweighed by the cost of doing so.⁵² This fact was reiterated by KCP&L witness Mr. Lutz who noted the studies that have been done on this issue have ranged widely in results, offering no clear path forward.⁵³

33. The distinction between benefit-cost studies, state-wide valuation studies, and ratemaking studies should also be addressed. During the hearing, these terms were often used interchangeably, while in practice they are very different.⁵⁴ In the Company's view, the state-wide valuation study, commonly referred to as a value of solar study, is the broad controversial study of benefits, including external benefits, intended to establish a value for solar energy production. The signatory parties do not support the use of a value of solar study to establish rates for DG customers. Ratemaking studies are analyses performed during the ratemaking process and include work done to establish allocation methods and cost assignments in a class cost of service (CCOS) study. KCP&L believes that these studies are common to the process. They are to be expected and will continue to be used in this context. These ratemaking studies will be modified to appropriately include DG considerations at the time of the related rate case filings. The third study variant, the cost-benefit study, was introduced by CURB through their testimony in opposition to the Stipulation and Agreement. In that testimony, they

⁵¹ Id. at 7-9.

⁵² Staff's Initial Comments, p. 8; Tr. Vol. 2, p. 354, lns. 17-25; p. 355, lns. 1-15.

⁵³ KCP&L's Initial Comments, p. 16; KCP&L's Reply Comments, pp. 5-7.

⁵⁴ Tr. Vol. 1, Lutz, pp. 258-260.

identify the study as an “analysis based on direct and quantifiable values.”⁵⁵ This view seems to place the benefit-cost study in between the value of solar and ratemaking approaches.

34. During cross-examination, CURB witness, Brian Kalcic, further clarified that his view was, in fact, wholly separate from the value of solar study.⁵⁶ Based on KCP&L’s understanding of the testimony offered, Mr. Kalcic’s recommendation is compatible with ratemaking studies such as the CCOS. The point of both is to represent the impact of DG customers on the cost of service. This impact is expected to materialize as avoided distribution, transmission, or generation costs. Mr. Kalcic also noted upon questioning from Commissioner Albrecht, that rather than conducting a separate cost-benefit study, it would be an appropriate alternative for the Commission to order utilities to examine the benefits of DG on their respective revenue requirement claims,⁵⁷ something that Westar witness Martin indicated was within the capability of their cost of service expert.⁵⁸

35. While Cromwell and CEP indicated a willingness to assist with the costs of any value of resource study ordered by the Commission, it appears to make little sense to require all other utility customers to also bear the costs of such studies (and the Staff, CURB, and Company time analyzing and potentially litigating the matter) when the results are expected to show little, if any, direct DG benefits given what even the solar advocates agree is a minimal level of penetration in Kansas at this time.⁵⁹ As discussed

⁵⁵ Catchpole page 6.

⁵⁶ Tr. Vol. 2, Kalcic, p. 293-294.

⁵⁷ Tr. Vol. 2, Kalcic, p.283.

⁵⁸ Tr. Vol. 1, Martin, p. 107.

⁵⁹ Tr. Vol. 2, Gilliam, p. 441.

above, Dr. Glass noted DG must be aggregated and large enough to be measured, and with the levels of DG penetration in Kansas at this time, even if Kansas required its utilities to conduct IRPs, it is unlikely that DG benefits would register as anything meaningful for purposes of analysis.

36. Paragraph fifteen (15) of the S&A recognizes the importance of establishing rate design policy in this proceeding. The Commission initiated this proceeding for that very purpose and KCP&L encourages the Commission to act now by approving the S&A as presented. Further, this provision will help ensure that future customers contemplating DG systems can make informed decisions about their DG options.⁶⁰

37. Finally, paragraph sixteen (16) provides a grandfathering provision that, with the exception of Westar's specific provision, provides that future DG tariffs will apply to customers adding DG systems on or after such tariffs are approved, and will not be applied to existing DG customers.

B. Standard of Review

38. KCP&L recognizes that the law generally favors the good faith settlement of disputed issues,⁶¹ and that the Commission will evaluate a stipulated agreement to determine whether (a) it is supported by substantial competent evidence in the record as a whole,⁶² (b) it results in just and reasonable rates, and (c) it is in the public interest.⁶³

⁶⁰ Martin in Support, p. 10.

⁶¹ *Krantz v. University of Kansas*, 271 Kan. 234, 241-242, 21 P.3d 561, 567 (2001).

⁶² *Herrera-Gallegos v. H & H Delivery Service, Inc.*, 42 Kan.App.2d 360, 363 (2009).

⁶³ *Citizens' Utility Ratepayer Board v. State Corp. Comm'n*, 28 Kan.App.2d 313, 316, 16 P.3d 319 (2000).

39. KCP&L further recognizes that the Commission must make an independent finding that approval of the proposed S&A is supported by substantial competent evidence in the record as a whole and that the agreement will establish just and reasonable rates.⁶⁴ The Commission has established a five-factor test to determine the reasonableness of proposed non-unanimous settlement agreements. These factors are:

- a. Whether each party had an opportunity to be heard on reasons for opposing the settlement;
- b. Whether the settlement is supported by substantial competent evidence in the record as a whole;
- c. Whether the settlement conforms to applicable law;
- d. Whether the settlement will result in just and reasonable rates;
- e. Whether the results of the settlement are in the public interest.⁶⁵

40. KCP&L posits that the S&A is supported by substantial competent evidence in the record as a whole, that the agreement satisfies the Commission's five factor test, as discussed herein in detail, and as such, is in the public interest.

41. Conversely, neither Cromwell, CEP nor CURB's proposals are supported by substantial, competent evidence. The Commission should reject their recommendations and instead approve the S&A and incorporate its terms as part of the Commission's Order in this docket.

C. Commission Factors

- (a) *Whether each party had an opportunity to be heard on reasons for opposing the settlement.*

42. As noted in the record, all parties to this proceeding met for settlement discussions on June 5, 2017, and continued settlement efforts up until the filing of the

⁶⁴ *Order Approving Non-Unanimous Stipulation and Agreement*, Docket No. 12-WSEE-112-RTS, issued April 18, 2012, ¶ 24.

⁶⁵ *Order Approving Contested Settlement Agreement*, Docket No. 08-ATMG-280-RTS, issued May 12, 2008, ¶¶ 9-10.

S&A.⁶⁶ The parties filed testimony in support and opposition of the S&A⁶⁷ and the Commission conducted a two-day evidentiary hearing where it heard from witnesses from all parties wishing to be heard. As such, this factor of the Commission's test has been met.

(b) Whether the settlement is supported by substantial competent evidence in the record as a whole.

43. The record evidence in this matter consists of prefiled initial and reply comments of 13 parties, including utilities, Staff, CURB, and DG advocates.⁶⁸ The terms of the Agreement can be found within the various positions of the parties. The Commission had the opportunity to observe and question the witnesses at hearing. The witnesses in support of the S&A displayed substantial knowledge of the subject matter, Commission practices and policies, and State policy as well.⁶⁹

44. In contrast, the opponents displayed a disregard for Commission practice and State policy, as well as for the potential cost impacts DG customers have on non-DG customers, and advocated for special treatment of DG as compared to utility scale resources, contrary to Commission practice.⁷⁰

(c) Whether the settlement conforms to applicable law.

45. No party to the proceeding seriously challenged this factor, and KCP&L is unaware of any law that would be contravened by approval of the S&A.

⁶⁶ Lutz in Support of Agreement, p. 3.

⁶⁷ See, Testimonies in Support - Glass, Lutz, Macke, Martin; Testimonies in Opposition - Catchpole, Cromwell, CEP, Kalcic.

⁶⁸ At hearing, the Commission moved certain prefiled comments into the Public Comments portion of the record.

⁶⁹ See generally, Tr. Vol 1, Martin, pp. 74-184; Faruqui, pp. 185-228; Lutz, pp. 234,261; Tr. Vol. 2, Glass, 315-367.

⁷⁰ Tr. Vol. 2, p. 426, Ins. 3-7, p. 424, Ins. 11-21.

(d) *Whether the settlement will result in just and reasonable rates.*

46. This factor is somewhat inapplicable, given that rates are not being established in this proceeding. However, the recognition that the existing two-part rate does not protect non-DG customers from bearing costs associated with DG customers' avoidance of fixed costs, and approval to bring forth appropriate rate design alternatives will put the utilities on the path of ensuring that future rates will remain just and reasonable as DG penetration expands.

(e) *Whether the results of the settlement are in the public interest.*

47. The results of the S&A are in the public interest because, the S&A gives the utilities needed direction to craft DG rate design structures appropriate for their respective customer bases, protects non-DG customers from costs shifts that occur when DG customers avoid paying fixed costs, provides DG customers with certainty when evaluating implementation of DG initiatives, and for all the reasons set forth above. Furthermore, opponents to the S&A failed to demonstrate how the S&A will be harmful to Kansas customers beyond a vague notion that there *could be* benefits of DG not being captured absent a value of resource study.

IV. CONCLUSION

48. In conclusion, the Non-Unanimous Stipulation and Agreement is supported by substantial competent evidence, and will further the public interest because it establishes timely policy for the utilities in addressing DG deployment, which will help ensure that all customers are apportioned their respective share of the costs and benefits of service by utilizing analyses consistent with existing Commission policy and practices.

For all the reasons set forth herein, KCP&L respectfully requests the Commission approve the Agreement without modification.

Respectfully submitted,

/s/ Roger W. Steiner

Robert J. Hack (KS #12826)
Telephone: (816) 556-2791
Roger W. Steiner (KS #26159)
Telephone: (816) 556-2314
Kansas City Power & Light Company
One Kansas City Place
1200 Main Street – 19th Floor
Kansas City, Missouri 64105
Facsimile: (816) 556-2110
E-mail: rob.hack@kcpl.com
E-mail: roger.steiner@kcpl.com

/s/ Terri Pemberton

Glenda Cafer (#13342)
Telephone: (785) 271-9991
Terri Pemberton (#23297)
Telephone: (785) 232-2123
Cafer Pemberton, LLC
3321 SW 6th St.
Topeka, KS 66606
Facsimile: (785) 233-3040
E-mail: glenda@caferlaw.com
E-mail: terri@caferlaw.com

**ATTORNEYS FOR KANSAS CITY
POWER & LIGHT COMPANY**

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 21st day of July, 2017, a true and correct copy of the above and foregoing was electronically served, hand-delivered or mailed, postage prepaid, to counsel for all parties.

/s/ Roger W. Steiner

Attorney for Kansas City Power & Light
Company