

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

Before Commissioners: Jay Scott Emler, Chairman
Shari Feist Albrecht
Pat Apple

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

ORDER OPENING GENERAL INVESTIGATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, and being duly advised, the Commission finds:

Jurisdictional Statement

1. The Commission is authorized on its own initiative to investigate all schedules of rates and rules and regulations of electric public utilities.¹ Furthermore, the Commission is authorized to take necessary steps to ensure that rates, rules, regulations, practices or services are provided in a non-discriminatory fashion at just and reasonable rates.² Hearings in a General Investigation docket are to be held in accordance with rules prescribed by the Kansas Administrative Procedure Act, unless the Commission orders otherwise for good cause.

Background

2. On September 24, 2015, in the Commission's Order Approving Stipulation and Agreement in docket number 15-WSEE-115-RTS, the Commission directed Staff to file a Report and Recommendation (R&R) outlining specific issues to discuss, research and evaluate in a

¹ K.S.A. 66-101d.

² Id.

manner consistent with the terms of the Stipulation and Agreement among the parties to Westar's last general rate proceeding.³

3. On March 11, 2016, Commission Staff (Staff) filed a Motion to Open Docket. Staff requested the Commission open a general investigation to examine various issues surrounding rate design for distributed generation (DG) customers. In support of its motion, Staff attached an R&R dated March 10, 2016. Staff stated, "the goal of this generic docket is to determine the appropriate rate structure for DG customers by evaluating the costs and benefits of DG, as well as by examining potential rate design alternatives for DG customers."⁴ Because this general investigation docket is designed to develop policy for DG rate design, staff does not recommend the Commission change current rates in this proceeding.⁵ Instead, Staff recommends any specific tariff changes should come from separate utility-specific docket filings.⁶ However, Staff recommends the Commission makes its findings in this docket binding.⁷ Therefore, Staff asks the Commission to order that this docket should proceed under the provisions of the Kansas Administrative Procedures Act.⁸

4. On March 24, 2016, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed a Motion to Intervene and Response to Staff's Motion to Open Docket.⁹ Westar

³ Docket No. 15-WSEE-115-RTS, Order Approving Stipulation and Agreement, ¶ 117 (Sept. 24, 2015).

⁴ Staff's Report and Recommendation p. 8 (March 11, 2016).

⁵ Id. at p. 7.

⁶ Id.

⁷ Id. at pp. 7-8.

⁸ Id. 8.

⁹ The Commission notes that its electronic filing system allows for parties to make filings into a docket once a docket number has been assigned by the Commission's docket room. However, the Commission would remind parties that in a general investigation there is no official docket until such time as the Commission issues an order opening a docket. If parties take issue with the scope of a general investigation as stated in an order opening the general investigation, the appropriate course of action is to seek reconsideration or clarification of the Commission's order. The Petitions to Intervene filed by Cromwell Environmental and the Alliance for Solar Choice will be addressed in a later order. However, for administrative efficiency the Commission will address the issues raised by Westar, Cromwell Environmental, and the Alliance for Solar Choice, herein.

takes issue with the scope of the general investigation proposed by Staff.¹⁰ While Westar agrees “that the costs of providing service to DG customers are properly at issue...the alleged potential benefits are not.”¹¹

5. Westar offers four arguments in support of its request to limit the scope of this general investigation to looking only at the cost to serve DG customers. First, Westar argues that consideration of alleged potential benefits of DG was not among the issues referred to this docket.¹² Second, Westar argues the Kansas Net Metering and Easy Connection Act and the Parallel Generation Act clearly addressed the regulated price an electric utility is to pay a customer with his or her own generation for energy produced in excess of the customer’s own consumption.¹³ Third, Westar argues that considering benefits of DG production in this docket improperly combines the regulated price for energy the utility purchases from customers and the regulated rate that the utility is allowed to charge customers for electric service.¹⁴ Finally, Westar argues that consideration of the benefits provided by a generation source such as wind energy, private rooftop solar, or any other customer-owned generation is entirely inconsistent with the principle of cost-based ratemaking and with Commission precedent.¹⁵ Alternatively, if the Commission chooses to consider benefits of private solar, Westar asks the Commission to limit the discussion to include only quantifiable benefits and costs related directly to the utility’s cost

¹⁰ Docket No. 16-GIME-403-GIE Westar’s 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 to Intervene) ¶ 1, Mar. 24, 2016.

¹¹ Id. at ¶ 4.

¹² Id. at ¶¶ 6-7.

¹³ Id. at ¶ 8.

¹⁴ Id. at ¶¶ 9-11.

¹⁵ Id. at ¶ 12.

of service and not intangible, unquantifiable benefits or broader benefits related to subjective notions of societal good.¹⁶

6. On April 7, 2016, Cromwell Environmental, Inc. (CEI) filed a Petition to Intervene and a Reply to Petition to Intervene and Response of Westar. CEI supports Staff's recommendation to consider both costs and benefits of DG.

7. On April 11, 2016, the Alliance for Solar Choice (TASC) filed a Petition to Intervene and Response to Staff's Motion to Open Docket. TASC requested the Commission accept the recommendations of Staff contained in its R&R filed on March 11, 2016.

Findings and Conclusions

8. The Commission finds that when establishing an appropriate rate structure for DG customers the Commission must set rates that are just and reasonable.¹⁷ When determining rate structure the Commission has the discretion to consider the utility's quantifiable costs of providing service to a customer class, such as DG customers.¹⁸ Likewise, the Commission recognizes that quantifiable benefits of DG may decrease the utility's cost of providing service to DG customers. This docket originates as an offshoot of Westar's most recent general rate proceeding to address rate design issues related to DG. Because DG rate design policy presents an issue of first impression before this Commission, the Commission finds this general investigation to be the appropriate docket for consideration of DG in the Commission's role as utility regulators.

¹⁶ Id. at ¶ 22.

¹⁷ K.S.A. 66-101b.

¹⁸ See *Midwest Gas Users Ass'n v. State Corp. Comm'n*, 3 Kan. App. 2d 376, 391, 595 P.2d 735, 746 (1979).

9. The Commission agrees with Westar that the legislature has foreclosed discussion of the price which a utility must pay a customer for DG under the Kansas Net Metering and Easy Connection Act¹⁹ and the Parallel Generation Act.²⁰ However, the Commission is not persuaded by Westar's argument that the legislature foreclosed the consideration of benefits as an offset to the cost of providing service to DG customers.

10. The Commission desires a thorough and thoughtful discussion of the appropriate rate structure for DG including the quantifiable costs and quantifiable benefits of DG. The Commission shares Westar's concern regarding how benefits are to be quantified and allocated and will permit 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.

THEREFORE, THE COMMISSION ORDERS:

A. A general investigation to examine various issues surrounding rate structure for distributed generation customers is hereby opened.

B. Hearings shall be conducted in accordance with the Kansas Administrative Procedures Act.²¹

C. All Kansas electric public utilities subject to the Kansas Corporation Commission's jurisdiction over retail rates are hereby made a party to this proceeding and must enter an entry of appearance no later than thirty (30) days from the date of this order.

D. The parties are hereby ordered to file comments on how the general investigation should proceed to minimize the need for extensive comment periods (e.g. responsive comments,

¹⁹ K.S.A. 66-1263.

²⁰ K.S.A. 66-1,184.

²¹ K.S.A. 66-101d.

roundtable, contested docket with testimony, solicit white papers from the parties, etc.) within forty-five (45) days from the date of this Order.

E. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.²²

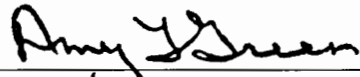
F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JUL 12 2016

SRF/sc



Amy L. Green
Secretary to the Commission

EMAILED

JUL 12 2016

²² K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

16-GIME-403-GIE

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

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