BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

REPLY COMMENTS OF KANSAS CITY POWER & LIGHT COMPANY

COMES NOW Kansas City Power & Light Company ("KCP&L" or the "Company"), pursuant to the State Corporation Commission of the State of Kansas' ("Commission") February 16, 2017 *Order Setting Procedural Schedule* ("Order"), and submits the following Reply Comments concerning the issues in this Docket:

I. DOCKET BACKGROUND

1. On March 11, 2016, the Staff of the Commission ("Staff") filed a *Motion to Open Docket* and attached *Report and Recommendation*. Staff's motion was docketed as Docket No. 16-GIME-403-GIE ("16-403 Docket").

2. On February 16, 2017 the Commission issued its Order Setting Procedural Schedule for the 16-403 Docket, establishing the due dates for comments, roundtable discussions, and an evidentiary hearing.[1] Under the Commission's procedural schedule, initial comments were to be filed by March 17, 2017, and reply comments by May 5, 2017.

3. On March 17, 2017, KCP&L filed its initial comments presented by affiant, Mr. Bradley D. Lutz ("KCP&L's Initial Comments"). Mr. Lutz is also the affiant for these Reply Comments on behalf of KCP&L. His background and qualifications are set out in KCP&L's Initial Comments.

[1] 16-403 Docket, *Order Setting Procedural Schedule*, issued Feb. 16, 2017.

4. Initial Comments were also filed by Commission Staff ("Staff"), affiant Dr. Robert H. Glass; Citizens' Utility Ratepayer Board ("CURB"), affiants Cary Catchpole and Brian Kalcic; Westar Energy, Inc. and Kansas Gas and Electric Company ("Westar"), affiants Jeff Martin, Dr. Ahmad Faruqui, and Ashley Brown; Empire District Electric Company ("Empire"), affiant William Eichman; Midwest Energy, Inc. ("Midwest"), affiant Patrick Parke; Southern Pioneer Electric Company joined by the Kansas Electric Cooperative, Inc. ("Pioneer/KEC"), counsel Lindsay Shepard; Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC ("Sunflower/Mid-Kansas"), affiant James Brungardt; Climate + Energy Project ("CEP"), affiant Dorothy Barnett; Cromwell Environmental, Inc. ("Cromwell"), affiant Edward Peterson; Brightergy, LLC ("Brightergy"), counsel Andrew Zellars; and United Wind, Inc. ("UW Inc."), affiant Jason Kaplin.

II. COMMENTS

5. The purpose of these Reply Comments is to respond to the Initial Comments of the other parties to this 16-403 Docket. KCP&L appreciates the opportunity to continue its participation in this general investigation concerning rate design for distributed generation ("DG") customers. The positions provided through the various Initial Comments, and the subsequent dialog achieved through the two Round Table meetings, have provided important perspectives into how both DG and DG rate design are viewed. It is clear that all parties view DG as an important energy resource and understand that now is the time to find an appropriate and equitable way to address the rate design issues associated with DG. What is not clear is how this proceeding might be used to shape broader DG policy concerns within the State of Kansas. As discussed later in these Reply Comments, there appear to be expectations beyond the scope of this proceeding and potentially beyond the scope of the Commission to address. As this 16-403 Docket continues, it

will become increasingly important to define the legal boundaries of this proceeding so that parties may focus on actionable efforts.

A. Quantifying the Costs and Benefits of DG

6. In the Commission's Order opening this 16-403 Docket, they established that, "[w]hen 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. Likewise, the Commission recognizes that quantifiable benefits of DG may decrease the utility's cost of providing service to DG customers,"[2] … "[t]he Commission desires a thorough and thoughtful discussion of the appropriate rate structure for DG including the quantifiable costs and quantifiable benefits of DG," 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."[3]

7. The Company supports the positions taken by Empire, Midwest, Pioneer/KEC, Sunflower/Mid-Kansas, Staff and CURB stating that, in establishing the quantifiable costs of providing service to DG customers, benefits provided by DG should be limited to those that are cost-based and quantifiable and represent actual costs (or avoided costs) defined by the market or another quantifiable cost basis. Many parties agree, to varying degree, with both Staff and CURB that the potentially quantifiable benefits provided by DG include: (1) avoided energy costs; (2) avoided line losses; (3) avoided generation capacity; (4) transmission capacity; and (5) avoided distribution costs. Adhering to quantifiable, cost-based costs and benefits will continue to ensure that rates for all customers will be equitable while encouraging efficient use of resources and minimization of unnecessary cross-subsidization between customers.

[2] 16-403 Docket, *Order Opening General Investigation* ("Order"), issued Jul. 12, 2016, p. 4, ¶ 8.
[3] Ibid, p. 5, ¶ 8.

8. All parties agree that it may be difficult to quantify the potential benefits for which DG reduces the utility's cost to provide service and these potential benefits would vary significantly for each utility. Not to mention, any benefits made quantifiable would differ both locationally within each utility's system and by the characteristics of the DG system operated by the customer. CURB recommends the use of the Total Resources Cost ("TRC") and Ratepayer Impact Measure ("RIM") stakeholder tests in determining the benefit/cost of DG. The Company does not agree. These tests are most appropriately applied when evaluating the overall benefits of a program to ratepayers as a whole, such as in various Energy Efficiency or Demand Response programs. They are not well suited, nor needed, to determine how DG benefits may adjust the utility's cost of providing service to DG customers.

9. A more appropriate method to ensure utility costs and benefits of DG are properly allocated to DG customers would be through a Class Cost of Service ("CCOS") study that establishes DG customers as their own separate customer class, or subclass. Sunflower/Mid-Kansas correctly states that, "[a]ny general or specific benefit that the utility provides would already be accounted for in its cost of service. Likewise, any quantifiable benefit provided by a DG customer, or any customer for that matter, would be accounted for in the reduction of the electric utility's cost of service, and passed on to the DG customer in the form of lower rates."[4] Many of the avoided grid benefits attributed to DG will flow through the CCOS studies based on their class allocations. For example, to the extent that DG reduces the DG customers' class contribution to system peak, the DG class will be allocated a correspondingly lower portion of costs allocated using class peaks, such as system generation capacity costs. As the potential benefits from customer DG may vary from one utility to another, each utility will have to determine

[4] Sunflower/Mid-Kansas Initial Comments, p. 3, ¶ 8.

the best method to account for DG customers within the CCOS studies and will likely have to undertake additional load research, engineering, and cost analysis to establish appropriate allocations that include a DG class or subclass.[5]

10. Both Staff and Empire identify the potential double counting of benefits as another justification for not including prospective avoided societal costs and benefits, such as environmental, health, etc. Empire correctly identifies the fact that the federal government has already estimated the societal benefits and has incorporated those into the Internal Revenue Service income tax code, which provides direct benefits to the DG customer. Furthermore, the DG customer retains any Renewable Energy Credits associated with their system which provides further potential economic value.[6] KCP&L concurs with Staff and Empire in these comments.

B. <u>State-Level Study of Benefits of DG</u>

11. CEP, Brightergy, and Cromwell specifically recommend that a state-level study be performed to quantify the benefits of DG. Most DG valuation studies have been focused on a single technology (solar), and were conducted for the purpose of determining the overall value of energy supplied to the utility by the DG customer; thereby, addressing Net Meter compensation or support for other volumetric pricing mechanisms like the DG "buy all/sell all" rate utilized by Austin Energy, and identified by CEP.[7] In their Order opening this investigation, the Commission agreed 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 Act and the Parallel Generation Act."[8] Additionally, the Commission goes on to suggest that benefits be considered

[5] Additional effort will be required to link the CCOS results with the associated rate designs to allow the CCOS results to be reflected in the final rates.
[6] Empire Initial Comments, p. 4, ¶ 9.
[7] CEP Initial Comments, p. 7, ln. 6.
[8] 16-403 Docket, *Order Opening General Investigation* ("Order"), issued Jul. 12, 2016, p. 5, ¶ 9.

as an offset of the cost of service to DG customers. As stated within KCP&L's Initial Comments for this 16-403 Docket, KCP&L continues to believe that any new study with the intent to establish a value of DG would be unnecessary. State-level DG benefit valuation, particularly for solar photovoltaic ("PV"), has been proven to provide inconsistent results based upon the valuation of external drivers.

12. With respect to other studies, efforts to generalize their results have been problematic. For example, within the Initial Comments of UW Inc., they suggest that the Commission take notice of the Brookings Institute report by Muro and Saha (2016) ("Brookings Report").[9] KCP&L reviewed that report and subsequently learned of two rebuttals, one by Lisa Wood,[10] a senior fellow also with the Brookings Institute and executive director for the Institute for Electric Innovation and the other by Tom Taton,[11] Director of Science and Technology Assessment with the Energy and Environmental Legal Institute, who similarly identified significant problems with the Brookings Report. Specifically, they asserted that the Brookings Report focused on studies showing benefit, excluded a significant study completed in 2013 for the California Public Utilities Commission, and did not update their assessment when a key study referenced in the report was found to be incorrect. Additionally, KCP&L takes issue with a Net Metering study[12] completed in Missouri by the Missouri Energy Institute ("MEI") referenced in the Brookings Report. MEI is a nonpartisan and nonprofit association working to increase energy economic development, innovation, and education throughout the State of Missouri, of which

[9] Brookings Institute, *Rooftop Solar: Net metering is a net benefit*, Mark Muro and Devashree Saha, 5/23/16, https://www.brookings.edu/research/rooftop-solar-net-metering-is-a-net-benefit/.
[10] Brookings Institute, *Why net energy metering results in a subsidy: The elephant in the room*, Lisa Wood, 6/13/16, https://www.brookings.edu/opinions/why-net-energy-metering-results-in-a-subsidy-the-elephant-in-the-room/
[11] Energy and Environmental Legal Institute, *A Critique of Brookings Institution's Mark Muro and Devashree Saha: Rooftop Solar: Net Metering Is A Net Benefit*, Tom Taton, 7/5/16, https://eelegal.org/tanton-a-critique-of-brookings-institututions-mark-muro-and-devashree-saha-rooftop-solar-net-metering-is-a-net-benefit/
[12] *Net Metering in Missouri: The Benefits and Costs*, Winter 2015, Missouri Energy Initiative

KCP&L is a member, and is represented on the MEI Board of Directors. KCP&L participated in the preparation of this study and, although it represents a valiant effort to produce a cost-benefit view of net metering at a time when few studies had been completed, the effort was hastily completed by persons largely unfamiliar with utility operations and it suffered from significant issues with both data and data processing. Prior to release, the participating Missouri utilities compelled MEI to include a statement in the report which, in part states, "[a]fter review of the final version, the Utilities [Ameren and KCP&L] believe the Net Metering white paper is incomplete, too reliant on a single study from Vermont, and should be updated to accurately reflect the current conditions and significant investments made in Missouri." The statement continues by saying, "[a]s a result, the Utilities wish to clearly express that, while supportive of the intent of the white paper, we cannot support the opinions and conclusions offered in this document. Further, the fact that Utility data is used in the report should not imply that this data is accurate for regulatory purposes, comparisons to other net metering related filings, or reflective of any formal, Utility data presented to the MPSC [Missouri Public Service Commission]." These short-comings call into question the findings of the Brookings Report, particularly the finding that net metering is a benefit for non-net metering customers.

13. As pointed out by Staff, a comprehensive DG benefit valuation study would be costly and likely reflect the interests of the parties paying for the studies.[13] No one has recommended a method for covering the expense of a comprehensive study. It would not be reasonable to burden Staff, and by extension the Kansas regulated utilities and their customers,

[13] Staff Initial Comments, p. 6, ¶ 12.

with this expense. No other party has volunteered to pay that expense. This detail cannot be ignored when considering if a study is to be performed.

C. Separate Class for DG Customers

14. Many of the parties provide Initial Comments expressing that DG rates should be reflective of the true costs and benefits. One method to ensure these costs and benefits are identified is to establish a distinct class or sub-class for residential DG customers to be used in CCOS studies. Midwest expressly rejects separate treatment in their Initial Comments, suggesting that DG types could vary, leading to different rate designs, that conditions could change causing future issues in managing the special treatment, and noting that current rates are able to accommodate varying usage characteristics. KCP&L agrees with Westar that DG customers are partial requirements customers that have different load characteristics from non-DG customers. Although the concerns offered by Midwest are reasonable, they do not address how to represent the costs and potential benefits associated with DG. A distinct class or sub-class is beneficial as costs and revenues may be allocated to that group of customers and the balance identified for ratemaking purposes. Said another way, unique identification within a CCOS study provides a clear path to associate costs (including reduction of costs) to revenues. Without a distinct class or sub-class, DG customer information is co-mingled with the general residential population and lost. The Company specifically includes sub-class within this comment. KCP&L prepares CCOS studies at the rate level. The DG rate, or sub-class, would provide the same isolation of costs and revenues, and thereby the same detailed information. For KCP&L, it might be premature to create a distinct class given the small number of customers who would occupy that class, but utilizing a distinct sub-class would achieve the same purpose. If the Commission finds value with having the

DG customers specifically identified within CCOS studies, KCP&L recommends the Commission allow flexibility as to how that distinction might be represented.

15. At its core, rate design is about cost recovery. Under the regulatory constructs of the State of Kansas, a revenue requirement is established by the Commission and rates are set in such a way as to recover those costs from customers. Normalized customer usage is defined to calculate the revenue produced from proposed rates and ensure the utility has an opportunity to recover the approved revenue requirement. For this reason, caution should be taken when attempting to use rate design as a promotional tool. There is uncertainty around customer responsiveness to price signals. If promotion of DG is a goal, there are other more effective means to promote adoption other than through rate design, which is the focus of this proceeding.

D. Rate Design

16. Initial Comments from parties including KCP&L, Westar, Staff, CURB, and Sunflower/KEC support the use of a distinct rate for DG customers. Further, most of these parties support the use of a three-part rate, or demand rate, for DG customers. For KCP&L, a demand rate is not unprecedented; nor is a residential demand rate unique now. KCP&L's Kansas residential customers previously had a demand rate available to them until November 1989. Kansas cooperatives Midwest Energy and Butler Rural Electric Cooperative currently offer a demand rate for their members. Westar affiant Dr. Faruqui notes in Appendix D to Westar's Initial Comments that an additional 37 U.S. utilities offer a residential demand rate.

17. KCP&L supports the three-part rate because it recognizes the capacity requirements placed on the system by a customer and utilizes a specific charge for the capacity they demand. In the case of DG customers, where DG energy production can offset the energy purchased from the utility, the use of a Demand Charge is a better charge to represent the grid services received by

DG customers that support and backup their renewable system. Furthermore, all customers could benefit from the use of a three-part rate. As noted in KCP&L's Initial Comments, KCP&L believes that demand rates would be an appropriate rate structure for all residential customers, and provide customers with a better indicator of how their usage influences the energy grid, recognizing the impact of the timing and concentration of energy use on cost. One additional point concerning the three-part rate which the Company supports is in response to the Initial Comments provided by Midwest. Midwest believes the rate designs from this 16-403 Docket should provide guidance, not prescriptive mandates. KCP&L supports this point, believing it is important that each utility choose the best implementation of the three-part rate for its situation and experience.

18. Although the majority of parties who provided a recommended rate design, preferred the three-part alternative, some other alternatives were offered. Specifically, CURB affiant Mr. Brian Kalcic does not offer a specific recommendation but instead offers a number of suggestions for consideration by the Commission including a Grid Access Charge, Minimum Bill, Standby/Backup Charges, and unbundled charges. Mr. Kalcic explores many of the positive and negative elements of these proposals in his testimony, but does not eliminate them from consideration. KCP&L would like to add some additional points for consideration by the Commission.

19. **Grid Access Charge:** The Grid Access Charge represents a simple approach that adds a fixed charge (or charge per kW of installed DG) to represent the costs of distribution facilities. While it does address some of the cost shift concerns, it does not properly reflect the

costs, and/or the reduction of the cost of service relating to any potential benefits of DG. Solar advocates have universally disliked this option.

20. **Minimum Bill:** The Minimum Bill establishes a minimum amount to be paid for each bill, serving as a proxy for an increased Customer Charge. Solar advocates offer that the Minimum Bill ensures some revenue amount is recovered from each customer, even if they generate most of their own energy. This is technically true. However, Minimum Bill amounts are often set to be relatively small and most DG customers still require energy from the utility; as a result, these DG customers will not be impacted by the Minimum Bill amount. The Minimum Bill approach serves as nothing more than a price floor that limits the impact of reduced usage. It does not address proper cost recovery for services provided to DG customers. If deployed broadly to the Residential class, Minimum Bills can negatively impact non-DG customers who have low usage.

21. **Standby or Backup Charges:** Standby/Backup Charges do not work well with the size and operating characteristics of Residential DG systems since most are designed to apply to larger customer generation systems when the customer's generator is unavailable due to planned or unplanned outages. Because residential DG is intermittent, and subject to multiple short duration "outage" periods, traditional standby rate designs are administratively burdensome and provide little to no value to the customer or the utility. Furthermore, Mr. Kalcic states that utilities, traditionally, recover the costs of standby service via a Demand Charge.[14] In practice, the Company agrees with Mr. Kalcic's assertion but cautions that equating the two charges may be an oversimplification as Demand Charges are designed to recover a broad array of costs representing

[14] CURB Initial Comments, Attachment B, p. 6, ¶ 11.

the many capacity-related services provided by the utility, including standby or backup capabilities.

22. **Unbundled charges:** Unbundled charges, while transparent and, in some way, a superior approach, would introduce numerous new charges to a customer bill, and result in a bill more complex than the proposed demand rate. Several recent industry reports have suggested that the only way to put all resources (central and distributed) on a truly level playing field that achieves both efficient operation and planning in the power system is to dramatically improve prices and regulated charges (*i.e.*, tariffs or rates) for electricity services (MIT, (2016)[15]; RMI, (2014)[16]; EEI, (2017)[17]; LBNL, (2016)[18]). These reports identify the trend toward unbundling and real-time marginal market pricing of grid services and suggest moving away "from block volumetric pricing will allow utilities to more efficiently direct not just individual DER ["Distributed Energy Resource"] deployment, but deployment of DERs in various combinations (such as solar paired with storage) to deliver a broader and more valuable set of attributes to the grid. In the absence of more sophisticated rates, customers and businesses are busy deploying thousands of megawatts of rooftop solar PV without smart inverters, storage capabilities, or peak-aligned panel orientation, as well as electric vehicle charging stations that cannot respond to signals from the grid. More dynamic rates offer significant opportunities to capture the capacity and ancillary services that are largely lost today, decreasing grid integration costs and increasing benefits,"[19] and, "The goal is

[15] *Utility of the Future*, Massachusetts Institute of Technology, MIT Energy Initiative, 2016, available at energy.mit.edu/uof

[16] *Rate Design for the Distribution Edge-Electricity Pricing for a Distributed Resource Future*, Rocky Mountain Institute, eLAB, 2014. Available at www.RMI.org

[17] *Delivering America's Energy Future=Electric Power Industry Outlook*, Edison Electric Institute, 2017, p. 10, available at http://www.eei.org/resourcesandmedia/industrydataanalysis/industryfinancialanalysis/Documents/Wall_Street_Briefing.pdf

[18] *Distribution System Pricing with Distributed Energy Resources*, Lawrence Berkley National Lab, 2016, available at https://emp.lbl.gov/sites/default/files/feur_4_20160518_fin-links2.pdf.

[19] *Rate Design for the Distribution Edge-Electricity Pricing for a Distributed Resource Future*, Rocky Mountain Institute, eLAB, 2014. p. 15 Available at www.RMI.org.

to match services that a given resource can provide with the needs of the grid to unlock greater value to the customer and to the grid. The addition of a capacity (demand) charge is the most common tool available to begin to unbundle rates along the attribute continuum. As customers, utilities, and regulators collect and analyze the growing amount of data available from advanced metering infrastructure and other sources, rates can move toward fully unbundled, attribute-based pricing."[20]

23. KCP&L completed a level of unbundling within its Commercial and Industrial rates in the late 1990s, resulting in our current four-part rate. The four parts of the rate are the: (1) Customer Charge (for customer-related costs); (2) Facilities Charge (for distribution costs); (3) Demand Charge (for transmission and generation costs); and (4) Energy Charge (for Kansas, non-fuel energy costs). The same cost categories are currently co-mingled within the Residential two-part rate. The Company believes the four-part rate could apply to residential customers including residential DG customers, although work would be needed to define the interaction of the net metering provisions and the representation of DG benefits. If a four-part rate were implemented for residential customers, significant education and customer support would also be needed to acclimate customers to the new presentation. The proposed three-part rate offers an intermediate solution.

24. Staff's Dr. Glass recommends that the Commission consider a three-part rate design utilizing a Demand Charge based on coincidence with system peak.[21] KCP&L does not support using a coincident basis. 'Demand', as used within rate design, can have different connotations and result in varied impacts to customer bills. How you approach this rate element is important to the success of the rate, especially given how DG customers impact the system. In a previous

[20] Ibid. p. 23.
[21] Staff Initial Comments, p. 13, ¶ 32.

SmartGrid Demonstration Project, KCP&L found that a customer's solar DG provided very little, if any, reduction in customer requirements for distribution grid capacity. Furthermore, KCP&L found that solar DG had a negligible effect on an individual customer's peak demand.[22] The Initial Comments provided by Cromwell in this 16-403 Docket illustrate a similar point in their comparison of a DG customer with an 8.25 kW array, using considerably less electricity annually but having a similar level of demand from one of their representative non-DG customers.[23]

25. To begin, if broadly applied, the Demand Charge is intended to represent and recover the utility's demand-related costs specific to generation, transmission, and portions of the distribution systems. Demand can be represented in various ways with the two primary methods applicable to this discussion being coincident demand and non-coincident demand. Coincident in this context, is referring to customer demands that occur coincident to the broader system peak. Non-coincident refers to the peak measured for that customer, regardless of its relationship to the system peak. In suggesting the rate design be based on coincident peak, Dr. Glass identifies a desire to attempt to effect change on the system peak. However, in practice, this is difficult to achieve.

26. System peaks are not known until after they occur, making billing based on coincident peak impractical. Typically, rate designs utilize time ranges to represent the coincident peak period and set rates accordingly. This approximates the connection to the system peak. The drawback to utilizing time ranges is it creates a structure where the customer can shift their usage to avoid the peak period and reduce their overall charge. By shifting usage, they do not change their actual demand placed on the system, they only change the amount they pay for that service.

[22] KCP&L Initial Comments, p. 19, ¶ 27.
[23] Cromwell Initial Comments, p. 5, ¶ 13.

As Cromwell points out, dramatic improvement in integrated energy storage will bring affordable options for storing solar-generated electricity to reduce peak consumption.[24] If the DG demand rate were to only be based on the customer's demand during limited 'on-peak' periods, it would be possible for a solar DG coupled with storage to completely avoid the Demand Charge.

27. KCP&L believes it is better to utilize a non-coincident approach for establishing demand. This method measures the individual maximum customer demand, regardless of when it occurs, and sets the rate on that basis. Under this approach the customer is billed according to what they use, a more appropriate and equitable approach. This approach is observed in Borenstein (2016)[25], also sourced by Staff, where, even though he does not advocate for the use of a Demand Charge, he still identifies that a monthly fixed charge based on an individual customer's service capacity is the more appropriate method for recovering related costs for that individual customer.

28. Alternatively, and as suggested by Sunflower/Mid-Kansas in their initial comments, a "ratchet" mechanism could be used to define the Demand Charge. The "ratchet" mechanism looks at some rolling period of time, typically 12 months, and identifies the largest demand occurring during that period. A customer would be billed for that largest demand amount. Under this approach, the customer's usage establishes the "size" of the Demand Charge and it is more difficult for the charge to be avoided, ensuring the customer pays for the capacity they require from the system.

29. The concept of a 12-month ratcheted Demand Charge would be similar to the Facilities Charge already used by the Company in its Kansas Commercial and Industrial customers four-part rate design. The Facilities Charge is designed to recover distribution costs included the operating, maintenance and capital costs of the distribution system closest to the customer, such

[24] Cromwell Initial Comments, p. 2, ¶ 6.
[25] Borenstein, S., 2016. *The Economics of Fixed Cost Recovery by Utilities*. The Electricity Journal. Vol. 29, pp. 5-12.

as poles, wires, and transformers. You may recall earlier in these KCP&L Reply Comments, discussion of a four-part rate that provided an approximation of the unbundled approach described by CURB. A Facilities Charge can be part of the four-part rate similar to the KCP&L Commercial & Industrial rates, or could be used as part of a three-part rate with the Facilities Charge being the sole representative of demand.

30. Consistent with KCP&L's earlier recommendation, KCP&L believes the decision concerning the use of demand charges should be left to the utility and supported as part of their individual rate design. For KCP&L, the non-coincident approach seems to be the most appropriate and practical to implement.

31. An additional rate design point offered by CURB affiant Mr. Kalcic which bears mentioning is "grandfathering".[26] This term is used to express an action by which customers are allowed to remain on their existing rates when a new rate is proposed. This is commonly used to allow customers to avoid dramatic impacts resulting from a rate change or to preserve benefits offered by the old rate. KCP&L does not agree that the Commission should automatically grandfather existing rates as part of the implementation of new DG-specific rates, but instead recommends the Commission take a case-by-case review of the merits of each utility proposal.

III. STATUTORY AND REGULATORY ISSUES: SCOPE OF PROCEEDING

A. Statutory and Regulatory Issues

32. While the Commission has broad discretion in setting rates and determining an appropriate rate design, that power is not unlimited. Rates must be just and reasonable; they cannot be unreasonably discriminatory or unduly preferential.[27] "The touchstone of public utility law is the rule that one class of consumers shall not be burdened with costs created by another class."

[26] CURB Initial Comments, p. 7, ¶ 13.
[27] K.S.A. 66-101b.

Jones v. Kansas Gas & Electric Company, 222 Kan. 390, 401 (1977). In *Jones*, the Kansas Court of Appeals found it was unreasonably discriminatory and unfair to charge the same late penalty to all customers, regardless of the nature of character of their delinquency. The Court stated,

> The penalty charged the late payer who causes the utility company to incur collection costs should reflect those costs and should be more than the penalty charged the late payer who does not cause collection costs. The penalty against the first class of late payers should be less than the penalty against the late payer who causes collection costs and should be limited to an amount which encourages prompt payment and covers the cost of extending credit.[28]

To avoid establishing an unreasonably discriminatory or unfair rate design, rates must be supported by the costs incurred to serve the various classes of customers paying such rates. Burdening one class of customer with paying the costs created by another class violates *Jones.*

33. Although the touchstone of public utility law indicates the cost-causer should be the cost-payer, Kansas Courts have found that the Commission can take into consideration factors other than costs in setting rate design, stating, "a rate structure imposing differing rates on different classes will be upheld if there is a reasonable basis to support it." *Midwest Gas Users Association v. State Corporation Comm'n,* 5 Kan.App.2d 653, 663 (1981) (*Midwest Gas Users II).* In *Midwest Gas Users II*, the Commission issued an order placing the entirety of a revenue requirement increase for the utility on only the interruptible class of customers. The Court accepted as reasonable the Commission's consideration of factors that were not directly cost items, such as the effect of present consumption of natural gas on future cost of gas purchases, the economic impact of the diminution of gas reserves available to serve core customers of the utility, and movement to market prices in the interstate gas market rather than fully allocated cost-based rates.[29]

[28] *Jones,* at 402.
[29] *Midwest Gas Users II,* at 656.

34. Thus, to the extent DG customers are causing the utility to incur costs to provide them electric service – even if it is only back-up service – public utility law states, generally, that they should, as a class, pay for those costs. While other factors can be considered by the Commission in setting rate design, there must be a reasonable basis related to matters impacting prices or the cost of providing service.[30] "A rate design fair on its face, with substantial evidence to support it, may be approved without a cost of service study absent a convincing showing of a *Jones* violation." *Midwest Gas Users Association v. State Corporation Comm'n*, 3 Kan.App.2d, 376 (1979) (*Midwest Gas Users I).* General subsidies are not permitted, such as subsidies intended to advance social policies. Social policy is the realm of the legislature.[31]

35. Through statutory enactments, the Kansas legislature has previously imposed social policy upon the rate design considerations of the Commission. For example, in the 1995 Kansas Telecommunications Act, K.S.A. 66-2001 *et. seq.*, the legislature established the Kansas Universal Service Fund as a mechanism to subsidize low-income customers, high-cost telephone service, and other services deemed important to the State. (K.S.A. 66-2005) While the legislature has expressed support of DG[32], it has not adopted laws requiring, or even authorizing, the Commission to establish rate designs that would subsidize such customers to promote social goals.

36. Additionally, the Commission does not have the ability to adopt rules that would conflict with laws enacted by the legislature. The Net Metering and Easy Connection Act, K.S.A. 66-1263 *et. seq.*, ("Net Metering Act") contains certain provisions that cannot be modified by

[30] See *Farmland Industries, Inc. v. Kansas Corporation Commission*, 29 Kan.App.2d 1031, 1047 (2001), *rev. denied* 274 Kan. 1111 (2002).
[31] *University of Kansas Hosp. Authority v. Board of Comm'rs of the County of Wabaunsee, Kansas*, 299 Kan. 942, 956 (2014).
[32] See the Net Metering and Easy Connection Act, K.S.A. 66-1262 *et seq.* and Parallel Generation Services statute, K.S.A. 66-1,184.

Commission action, as does the Parallel Generation Services statute.[33] These laws include the following requirements and provisions:[34]

Net Metering and Easy Connection Act:

a. Utility companies must make net metering available to customers-generators on a first-come, first-served basis.

b. The net metering obligation is capped at the point the total rated generating capacity of all net metered systems equals or exceeds one percent of the utility's peak demand during the previous year, although the Commission is allowed to increase the total capacity above one percent after conducting a hearing.

c. Utilities must provide a class bidirectional meter to customer-generators at no charge.

d. The utility must disclose annually the availability of the net metering program to customers.

e. Customer-generators with an interconnection agreement prior to July 1, 2014, are to be extended certain terms of service reflecting terms available to new customer-generators.

f. The utility can propose in a rate proceeding the application of time-of-use rates, minimum bills or other rate structures that would apply to all customer-generators.

g. Excess generation of a customer-generator that began operating prior to July 1, 2014, is to be credited to future usage, with all unused credits expiring each year on March 31.

h. Excess generation of a customer-generator that began operating on or after July 1, 2014, is to be credited to the customer at a rate of 100% of the utility's monthly system average cost of energy per kWh.

i. Customer-generators existing prior to July 1, 2014:

   (i) Residential customer-generators can generate electricity subject to net metering up to 25 kw;

   (ii) Commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators can generate electricity subject to net metering up to 200 kw;

[33] K.S.A. 66-1,184.

[34] This is not a full rendition of the provisions in the Net Metering Act and the Parallel Generation Services statute. These are the provisions KCP&L determined were most likely to be relevant to the matters at issue in this generic proceeding.

j. Customer-generators commencing after July 1, 2014:

(i) Residential customer-generators can generate electricity subject to net metering up to 15 kw;

(ii) Commercial, industrial, religious institution, local government, state government, federal government, agricultural and institutional customer-generators can generate electricity subject to net metering up to 100 kw, unless otherwise agreed to by the utility;

(iii) School customer-generators can generate electricity subject to net metering up to 150 kw.

k. Customer-generators must appropriately size their generation to their expected load.

l. Identified safety, performance, interconnection and reliability standards must be met by the customer's facilities.

m. Simple contracts must be used for interconnection and net metering.

n. Reasonable costs incurred by a utility for net metering are to be recoverable in the utility's rates.

Parallel Generation Services:

o. Every utility shall enter into a contract for parallel generation service with any person who is a customer of the utility, allowing the customer to attach or connect to its delivery and metering system a device for the purpose of feeding excess power generated by the customer's energy producing system into the utility's system.

p. Such contracts shall include fair and equitable compensation on the customer's monthly bill for energy supplied to the utility.

(i) Such compensation shall be not less than 100% of the utility's monthly system average cost of energy per kWh except that in the case of generators with a capacity of 200 kw or less, such compensation shall be not less than 150% of the utility's monthly system average cost of energy per kWh.

(ii) The utility may credit such compensation to the customer's account or pay it to the customer at least annually or when the total due equals $25 or more.

q. Every utility shall enter into a contract for parallel generation service with any person who is a customer of the utility, if the customer is a residential customer and owns a renewable generator with a capacity of 25 kw or less, or is a commercial customer and owns a renewable generator with a capacity of 200 kw or less, or is a school and owns a renewable generator with a capacity of 1.5 MW or less.

r. No more than 10 irrigation pumps connected to renewable generators can be attached to the utility's system.

s. For safety and quality of system power, the utility can require the customer, at certain times, to limit the production of energy from its facility to an amount no greater than the load at the customer's facility.

t. Terms identifying the responsible party for certain costs of interconnection.

u. The utility can limit the number and size of renewable generators to be connected to the utility's system due to the capacity of the distribution line.

v. In no case can the utility be obligated to purchase an amount greater than 4% of the utility's peak power requirements.

37. To the extent any party to this generic proceeding is proposing the Commission adopt rules that would conflict with the above statutory provisions, the Commission lacks the authority to do so. Parties wanting changes to these provisions must seek relief from the legislature.

B. <u>Scope of Proceeding</u>

38. Because there is already a statutory structure in place for DG via the Net Metering and Easy Connection Act, some of the recommendations presented in the initial comments filed in this 16-403 Docket probably cannot be adopted by the Commission. For example, some parties are advocating for expensive studies to determine the value of solar DG to the utility's overall system. The values arrived at from the solar study cannot be used to change the compensation provisions of the Net Metering Act set forth above.

39. In this generic proceeding, the Commission can and should consider the rate design issues for DG as discussed above in Section VI(D) above. From this 16-403 Docket, the Commission can issue an order setting out policy for DG rate design to be followed in future company-specific rate cases, but the Commission's order in this Docket cannot change a utility companies existing rates or rate design. Implementation of standards adopted in this generic docket must be accomplished by individual companies in their individual, company-specific cases filed subsequent to the order issuing in this case.

WHEREFORE, KCP&L requests the Commission consider KCP&L's Reply Comments regarding the issues in this 16-403 Docket.

Respectfully submitted,

/s/ Robert J. Hack

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

Glenda Cafer (KS #13342)
Telephone: (785) 271-9991
Terri Pemberton (KS #23297)
Telephone: (785) 232-2123
CAFER PEMBERTON, L.L.C.
3321 SW 6th Avenue
Topeka, Kansas 66606
Facsimile: (785) 233-3040
glenda@caferlaw.com
terri@caferlaw.com

COUNSEL FOR
KANSAS CITY POWER & LIGHT COMPANY

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 5th day of May, 2017, a true and correct copy of the above and foregoing document of Kansas City Power & Light Company was electronically served, hand-delivered or mailed, postage prepaid, to all parties of record.

/s/ Robert J. Hack
Robert J. Hack

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

AFFIDAVIT OF BRADLEY D. LUTZ

STATE OF MISSOURI)
) **ss**
COUNTY OF JACKSON)

Bradley D. Lutz, being first duly sworn on his oath, states:

1. My name is Bradley D. Lutz. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company as Manager, Regulatory Affairs.

2. Attached hereto and made a part hereof for all purposes is the Reply Comments on behalf of Kansas City Power & Light Company, having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that the information contained in the foregoing document is true and accurate to the best of my knowledge, information and belief.

Bradley D. Lutz

Bradley D. Lutz

Subscribed and sworn before me this 5th day of May, 2017.

Nicole A. Wehry

Notary Public

My commission expires: Feb 4, 2019

NICOLE A. WEHRY
Notary Public - Notary Seal
State of Missouri
Commissioned for Jackson County
My Commission Expires: February 04, 2019
Commission Number: 14391200