

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Joint Application of Westar)
Energy, Inc. and Kansas Gas and Electric) Docket No. 18-WSEE-328-RTS
Company for Approval to Make Certain Changes)
in their Charges for Electric Services.)

**INITIAL COMMENTS OF THE CITIZENS' UTILITY RATEPAYER BOARD ON
EVERGY CENTRAL'S RATE DESIGN**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and, pursuant to the schedule set forth in *Order Setting Procedural Schedule on Rate Design* issued by the State Corporation Commission of the State of Kansas ("Commission") in this docket on June 16, 2020, submits its comments regarding the issues on rate design for residential Distributed Generation (DG) customers for Evergy Central.

I. Background

1. On February 1, 2018, Westar Energy, Inc. and Kansas Gas and Electric Company (collectively "Westar") filed an application with the Commission asking for approval to change their rates.

2. With respect to distributed generation, Westar proposed a change to the rate schedule affecting non-grandfathered residential customers with distributed generation ("DG customers") to implement a three-part rate (fixed customer charge, energy charge, and demand charge) for those DG customers.¹ Westar relied on the Commission's order on the Stipulation and Agreement in Docket No. 16-GIME-403-GIE ("16-403 Docket") in creating a separate rate schedule for DG customers and adding a demand charge to the standard residential service rate.

¹ *Application for Westar Energy, Inc. Volume 1*. Pg. 9 ¶18. Docket No. 18-WSEE-328-RTS. (Feb. 1, 2018).

In the 16-403 Docket, the Commission found that DG customers' use of the electric grid as a backup system results in less energy being consumed, which results in DG customers not paying the same proportion of fixed costs as non-DG customers, creating a cross-subsidy.² The Commission agreed in the 16-403 docket that a cost of service based three-part rate with a demand charge is an appropriate way for Westar to recover the cost of providing services to DG customers better.³

3. On February 2, 2018, CURB filed its Petition to Intervene and Motion for Protective Order and Discovery Order.⁴ The Commission granted CURB intervention on February 8, 2018.⁵ CURB was one of many stakeholders granted intervention in this docket.⁶

4. On July 17, 2018, CURB joined with several intervenors in filing a Joint Motion to Approve Non-Unanimous Stipulation and Agreement ("S&A"). In regards to the DG customers, Westar was to implement a three-part rate for the DG customers, which included a demand charge of \$9.00 for the summer months and \$3.00 for the winter months.⁷ After a two-day hearing over the S&A, the Commission issued its Order Approving Non-Unanimous Stipulation and Agreement on September 27, 2018.

5. On October 12, 2018, Sierra Club and Vote Solar, two intervenors opposed to the S&A, filed a Petition for Reconsideration on the grounds that the DG rate tariff was not based on substantial competent evidence, the DG rate violated state and federal law, and that

² *Final Order*, ¶22, Docket No. 16-GIME-403-GIE (Sept. 21, 2017).

³ *Id.* at ¶23.

⁴ *CURB's Petition to Intervene and Motion for Protective Order and Discovery Order*, Docket No. 18-WSEE-328-RTS. (Feb. 2, 2018).

⁵ *Order Designating PHO, Suspension Order, Protective Order, Disc. Order, Granting Interv. CURB*, Docket No. 18-WSEE-328-RTS (Feb. 8, 2018).

⁶ *Order Setting Procedural Schedule on Rate Design*, pg. 2, ¶2, Docket No. 18-WSEE-328-RTS (Feb. 8, 2018).

⁷ *Non-Unanimous Stipulation and Agreement*, ¶46, Docket No. 18-WSEE-328-RTS (July 17, 2019).

the DG rate was not in the public interest.⁸ The Commission denied the Petition for Reconsideration on November 8, 2018.⁹

6. Sierra Club and Vote Solar filed a Notice of Appeal and the Kansas Court of Appeals took up the case. On April 12, 2019, the Kansas Court of Appeals issued an unpublished Memorandum Opinion, affirming the Commission's Order.¹⁰ Sierra Club and Vote Solar filed a Petition for Review with the Kansas Supreme Court.

7. On September 3, 2019, the Kansas Supreme Court granted the Petition for Review and heard oral arguments on December 19, 2019.

8. On April 3, 2020, the Kansas Supreme Court reversed and remanded the Court of Appeals' decision. The Kansas Supreme Court found that the three-part DG rate design violated an anti-discrimination statute, K.S.A. 66-117d. The case was remanded back to the Commission for further proceedings on rate design.

9. The Commission reopened this docket for the limited purpose of determining an appropriate DG rate design for Westar (now Evergy Central). Recognizing that the issue of distributed generation is not unique to Evergy Central, the Commission instructed all Kansas electric utilities to enter their appearances in the docket and set a deadline for all other interested parties to file Petitions for Intervention by June 30, 2020.¹¹ The Commission further set a

8 *Sierra Club and Vote Solar's Petition for Reconsideration*, Docket No. 18-WSEE-328-RTS (October 12, 2018).

9 *Order on Petition for Reconsideration*, Docket No. 18-WSEE-328-RTS (Nov. 8, 2018).

10 *In the Matter of the Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Company*, No. 120,436, WL 1575480 (Kan. App. 2019) (*unpublished*). (*Westar Energy, Inc. I*).

11 *Order Setting Procedural Schedule on Rate Design*, pg. 6, ¶¶15 & 16, Docket No. 18-WSEE-328-RTS (June 16, 2020).

procedural schedule, requiring parties to file initial comments on the issue of DG rate design by August 14, 2020.

II. Legal Framework & Analysis

10. Before addressing alternative rate designs as mandated by the Kansas Supreme Court and the Commission, CURB believes an analysis of the Court's opinion will be helpful in crafting a rate structure that complies with current law and promotes fair rates. The Court's opinion has given considerable weight to statutory limitations on Commission authority on the subject of price discrimination. Although the Commission is tasked with approving a new rate design that deals with the DG class for Evergy Central, CURB believes that a wider view of rate design and consideration for all residential customers is vital to crafting long term solutions. Indeed, the results of this docket may have lasting implications for rate design for all of the state's electric utilities beyond Evergy. For instance, Southern Pioneer Electric Company recently proposed a tariff for its DG customers which included a grid access charge, but chose to withdraw its proposal for another time in light of the Kansas Supreme Court's ruling on Westar's DG tariff.¹²

11. On April 3, 2020, the Kansas Supreme Court published an opinion regarding the creation of a three-part rate design for DG customers from this docket.¹³ The Court weighed in on the appropriate interpretation of two statutes that related to the treatment of DG customers, K.S.A. 66-117d and 66-1265(e). 66-117d prohibits utilities from considering the use of any

¹² See Rebuttal Testimony of Richard J. Macke on behalf of Southern Pioneer Electric Company, p 18, Docket No. 20-SPEE-169-RTS (May 7, 2020).

¹³ In the Matter of the Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Company, 460 P.3d 821, (Kan. S. Ct. 2020). (Westar Energy, Inc. II); also found at <https://www.kscourts.org/Cases-Opinions/Opinions/Published/In-re-Joint-Application-of-Westar-Energy-and-Kansa>.

renewable energy source by a customer as a basis for setting higher rates or charges for services or for imposing any other prejudice or disadvantage. Meanwhile, 66-1265(e) allows utilities the option to propose rate structures that would apply to all DG customers, such as time-of-use rates or minimum bills. Ultimately, the Court determined that the Commission-approved, three-part rate structure was unlawful because it violated K.S.A. 66-117d. The Court reasoned, based upon legislative history and statutory interpretation, that 66-117d and 66-1265(e) are not inconsistent and that the Commission's three part rate subjected DG customers to higher rates.

12. The Court highlights the consequences of recovering a portion of a utility's fixed costs in energy charges.¹⁴ Under a traditional two-part rate design, some portion of a utility's fixed costs may be included in variable energy charges as a way to incent prudent energy consumption by customers, among other purposes. However, when a customer is using less than the class average amount of energy each month, and arguably not paying a fair share of the fixed costs required to connect the customer to the grid, other customers may be expected to make up the difference. When this lower than average energy use is attributed to customers who share certain characteristics, intra-class subsidies can be discerned. Charging different rates to customers in different rate classes is not a foreign concept in ratemaking. The Kansas courts have upheld differential pricing for utility services, as long as there is a reasonable basis to support it.¹⁵ In this instance, the three-part rate design contained in the settlement was intended to reduce the subsidy provided to DG customers under Westar's existing two-part residential rate structure.

¹⁴ Westar Energy, Inc. II at *882.

¹⁵ Midwest Gas Users Ass'n v. State Corp. Commission, 5 Kan.App.2d 653, 663 (1981).

13. The Court identifies 66-117d as Kansas’s response to growing concerns over climate change in the 1970’s and 80’s and the desire to diversify customer demand on the system to promote load management control.¹⁶ The Court’s analysis puts these two statutes into a hierarchy, where rate structures for DG customers must conform to the larger prohibition against differential pricing solely on the basis of renewable energy generation. The Court treated language in 66-117d as an anti-discrimination statute, akin to protections against discrimination on the basis of race or gender. However, even the acknowledged inability to recover the cost of serving the DG customer class under a traditional two-part rate design was unpersuasive to justify implementing a three-part DG rate design in the face of statutory construction.

14. Indeed, the Supreme Court rejected the Kansas Court of Appeals’ decision to uphold the three-part DG rate design. There, the Kansas Court of Appeals found that the record used by the Commission contained substantial competent evidence to support the three-part rate (i.e. a reasonable basis to support it).¹⁷ The Kansas Court of Appeals also used canons of statutory construction to determine that 66-1265(e) was not only enacted more recently than 66-117d, but also that it was the more specific of the two statutes in regards to DG rate design. Therefore, the Kansas Court of Appeals upheld the Commission-approved three-part rate structure for DG customers. However, the Kansas Supreme Court chose not to adopt the Court of Appeals’ decision. The Court instead relied on a plain language analysis of the statutes and drew a distinction between “price” and “rate structure.” The Supreme Court recommended various alternative rate structures that address subsidies and avoid price discrimination.

¹⁶ Westar Energy, Inc. II at *825.

¹⁷ Westar Energy, Inc. I. at*7.

15. The Supreme Court emphasizes that its illustrative alternative rate structures are not guaranteed to pass political or legal hurdles.¹⁸ The Commission's economic judgment is left largely intact, except with this restriction for DG customers. Finding a non-discriminatory basis to enhance fixed cost recovery from DG customers will be difficult, and highly prone to litigation. Attempting to justify different rates for DG customers on a basis other than self-generation is not likely to gain much traction because even the Kansas Court of Appeals rejected a similar argument.¹⁹ Imposing a new rate structure on a class of customers will, of necessity, create winners and losers. This case effectively says that DG customers cannot be singled out as the only losers.

16. The Commission and all interested parties are tasked with creating a rate structure that fits within the existing statutory boundaries. Such a structure must still be based on substantial competent evidence and must fairly balance the interests of ratepayers and utilities. At the heart of this docket is the question of how Evergy Central can enhance fixed cost recovery from a DG class that cannot be assigned special charges on the basis of the characteristic that makes it a class. In CURB's view, any particular rate design that is approved for Evergy Central should respond to a number of considerations:

- What kind of policy will be promoted or discouraged?
- Is this rate design revenue-neutral?
- Are non-DG customers disproportionately impacted compared to the impact that DG customers have on the utility?
- Will residential customers readily accept and adapt to this rate structure?
- Who are the winners and losers in this rate design?

¹⁸ Westar Energy, Inc. II at *827.

¹⁹ Westar Energy, Inc. I at *5 (rejecting the argument that 66-117d does not apply because RS-DG customers are "partial requirement" customers with distinct electricity usage patterns).

17. A fair portion of the Supreme Court's decision relies on legislative intent. Specifically, a long history of climate change and energy supply concerns from forty years ago remained relevant in the Supreme Court's analysis. The debate on both these subjects remains lively today. The Court stops short of providing guidance on what kind of policy Kansas should pursue, recognizing that policy is determined by the Legislature. The Court accurately notes that its job is to interpret and apply the law as it is written.

18. Thus, while the Commission can address the Kansas Supreme Court's decision by approving a new rate design for Evergy Central, CURB believes that the Kansas State Legislature could assist matters by updating Kansas policy regarding energy conservation and renewable generation. CURB can envision legislative action that wholly endorses the Supreme Court's interpretation or rejects all or part of it. Such a change in the law could take place in the next legislative session. Any alternative rate design stemming from this proceeding may be rendered ineffective or no longer appropriate as a result. CURB believes that the Commission should approve the option that provides an expedient solution for Evergy Central's DG customers, with the smallest impact on residential ratepayers and the utility.

19. Solar proliferation has greatly changed since the 1980's and justifies a re-examination of public policy. CURB has previously advocated for a more detailed examination of the costs and benefits that DG customers provide. The complexities associated with this docket emphasize the need for a better understanding of the economics of DG rates and how Kansas intends to further adopt the technology. Until such a determination is made, the Commission should consider specifying that the rate design approved in this docket will be specific to Evergy Central customers and not a template for other Kansas utilities to follow.

20. CURB believes that this docket and any resulting rate design should be restricted to only apply to Evergy Central. Any rate decisions will necessarily be based on Evergy Central's previous Class Cost of Service study. This data is distinct from other utilities. Utility-specific decisions should be based on the needs and resources of the individual utility in order to craft just and reasonable rates. Unlike other utilities, Evergy Central is currently under a rate moratorium and must keep any rate changes revenue neutral until the end of the moratorium.²⁰ All utilities are bound by the Supreme Court's interpretation of 66-117d and 66-1265(e). However, each utility should get to determine how they implement rates for their respective DG population.²¹ To that end, other utility companies that intervened in the docket can provide their experience and expertise by analyzing the issues.

III. CURB's Comments

A. Alternative Rate Designs

i. Time-of-Use Rates

21. Under Time-of-Use (TOU) rates, the price of electricity varies based upon the cost of generation and demand. TOU rates may vary by season, day of the week, and/or across multiple periods over the course of each day. TOU rates may be able to send appropriate price signals if those rates are carefully studied and crafted to encourage customers to use energy during off-peak times. TOU rates may provide savings to those customers who actively monitor their electric bills and are willing to make lifestyles changes to reduce on-peak usage. Evergy Central currently offers TOU rates stratified into daily peak periods (peak, intermediate-peak

²⁰ *Order Approving Merger Application*, pg. 14, ¶32, Docket No. 18-KCPE-095-MER (May 24, 2018).

²¹ See *Final Order*, pg. 14, ¶35, Docket No. 16-GIME-403 (Sept. 21, 2017).

during summer, and off-peak), but the tariff is in pilot status, is only available to customers eligible for Residential Service (which means no DG customers at this time), and currently has a participation cap of 1,000. Under existing optional TOU rate plans like Evergy Central's TOU Pilot program, customers whose schedules already match up with the favorable pricing hours are more likely to realize savings than those who are unwilling or unable to change their behavior. TOU rates can be structured to provide favorable price signals to customers to achieve a desired policy goal. If the Commission wishes to promote the use of renewable energy, TOU rates could be designed in a way that provides the most significant discounts when renewable resources like the wind and solar are at their most potent, like Xcel Energy's pilot TOU program in Minnesota.²² To reduce peak demand on the system, rates could be scheduled around certain hours of the day. Some TOU programs supply customers with smart devices that can assist in controlling energy use during the more expensive peak periods. However, there are people who are unable to afford the additional equipment needed to see savings with TOU rates. CURB has significant concerns about imposing TOU rates on all residential customers, and particularly on those customers who cannot afford the tools to facilitate load management.

22. The caveat to implementing TOU rates is how to price and design them to be attractive to all customers, while allowing the utility to recover its costs and other revenue requirements. Customer education is an important factor in achieving the desired outcomes. The timing of on-peak and off-peak hours is also critical to designing rates that customers will

22 Trabish, Herman, *Has Xcel Minnesota designed the ideal residential time-of-use rate?* Utility Dive, (Dec. 22, 2017). Accessed at <https://www.utilitydive.com/news/has-xcel-minnesota-designed-the-ideal-residential-time-of-use-rate/513235/>.

accept. If the price signals are appropriate, customers may be more receptive to conserving and using energy during the off-peak times.

23. Customers must also be adequately advised of the program and have access to resources and materials to make consumption decisions. Unfortunately, TOU is not a switch that, once flipped, will automatically lower everyone's rates and recover the utility's cost of service. It will take significant time and effort to educate customers and study the resulting consumption changes and revenue levels. Making a TOU program mandatory for all residential customers is likely to cause backlash and disdain from customers who do not see any meaningful savings from the program.

24. Non-DG customers have been billed on the current two-part residential rate since the end of the rate case. In order to remain revenue neutral as required by the merger agreement, a hypothetical TOU rate structure would need to adjust on- and off-peak pricing to produce the same total revenue as under the two-part rate design. In doing so, TOU rates are set to account for an "average" user among all residential customers. However, there will be a number of customers on either side of the average who may experience higher bills, despite no change in their consumption behavior. To reduce the potential for public complaints, extensive customer education efforts will be needed from the utility. Customers will also need to be engaged to understand how TOU rates impact their monthly bills. Due to seasonally different consumption patterns, customers may require months' or years' worth of bills to analyze their own savings and best practices. The scope of this docket, to implement a non-discriminatory rate design, may not allow enough time to develop fair rates that customers will accept. Evergy Central's rate moratorium is set to expire in the next three years and it will likely file a new general rate

case then. The Commission has previously endorsed, though not ordered, value of resource studies for DG customers and their quantifiable market-based costs and benefits to the utility.²³ CURB believes that now is an appropriate time for such a study to be done, especially if TOU rates are being considered as a viable, non-discriminatory structure.

25. TOU rates in Kansas could be structured to promote any number of policy goals, such as promoting residential solar or spreading out customer demand on the grid. However, one must remain mindful of the potential disadvantages when rates are designed to benefit certain classes of customers. This necessarily implies that the remaining customers are stuck with a rigid rate design and no meaningful options to realize savings. While this kind of favoritism may avoid discrimination claims, the overall burden on the non-DG class may be significant.

26. To benefit from TOU rates, a good portion of customers will need to alter their consumption to take advantage of the off-peak pricing. However, the impetus to pay for less expensive energy competes with the increase of residential load in light of the ongoing COVID-19 pandemic due to more people working from home or suffering from unemployment. It is unclear how much longer the economic effects of the pandemic will linger, but this noticeable change in usage may be a lasting factor in determining rates across all classes. A rate structure that may make sense today does not necessarily mean it will continue to be appropriate in the future. Utilities and regulators will need to maintain a level of flexibility when handling TOU rates. That will require significant engagement with data collection and input from all stakeholders. CURB believes that a switch to some kind of TOU rates now for all residential

²³ *Final Order*, pg. 10, ¶26, Docket No. 16-GIME-403-GIE (Sept. 21, 2017).

customers may confuse customers who are not actively monitoring their consumption and lead to unexpected bill increases. A switch to TOU at this time risks implementing rates based on incomplete data and a limited review of factors, like peak demand levels, renewable resource availability, and customer education efforts. A switch of this magnitude would be better suited after a diligent review of pertinent data points and the end of Evergy Central's rate moratorium.

27. As an alternative to a mandatory switch to TOU rates for all residential customers, the Commission could consider requiring Evergy Central to adjust its current TOU pilot program to be available to DG customers. This proposal would allow those DG customers who may be able to realize savings under a TOU schedule to try out the program and for regulators to gather data regarding consumption and possible cross-subsidies that develop. Customers not in the pilot program can continue relying on the current rate without experiencing sudden bill spikes. This may provide enough relief for DG customers until Evergy Central's next rate case when a more appropriate rate structure can be developed.

ii. Sliding Scale Rate (Declining Block Rates)

28. The Kansas Supreme Court also suggested that the use of a "sliding scale rate that decreased the per-unit price as the customer purchased a higher volume of energy" might be an acceptable rate design that reduces or eliminates the economic free rider program and avoids price discrimination. This type of rate design prices energy based on how much a customer uses. As the customer's monthly consumption crosses higher usage thresholds, the price per kWh decreases, undermining conservation efforts. Large energy users stand to benefit from this type of structure. CURB finds the lack of discussion by the Supreme Court regarding this rate design troubling. CURB speculates that the appeal for this alternative rate design is the

uniform application of these declining block rates, in that the only factor that determines prices is total energy use. However, recall from Court of Appeals' portion of Westar Energy, Inc. where the argument against application of 66-117d was that DG customers had a unique energy use pattern which justified the differential pricing. In the same way, a Sliding Scale Rate disfavors low to moderate residential energy users by charging them a different rate based on their "unique" usage pattern. Although the price discrimination issue is avoided, the impacts of differential pricing for DG customers and other low to moderate residential users still exist under a Sliding Block rate.

29. Whether or not residential customers use DG to power their homes, the end result of a declining block rate structure would be the establishment of different prices for differently sized customers. The only difference between this structure and the now rejected demand charge is the identification of the class of customer to which the different prices apply. This distinction, in conjunction with 66-117d, appears to be sufficient for the Supreme Court to give its mark of approval.

iii. Flat Fixed Charge (Straight Fixed Variable)

30. A flat fixed charge that completely recovers a utility's fixed cost from all residential customers greatly benefits utility companies while restricting customers' ability to control their energy bills. Straight Fixed Variable ("SFV") pricing is a type of revenue decoupling mechanism that assigns a fixed monthly charge to all customers that reflects full recovery of the utility's fixed costs to provide services. This type of plan is accompanied by a lower volumetric charge that accounts for the removal of all fixed cost recovery from the energy rate. The Kansas Supreme Court highlights this alternative rate design as a means to address the

“free rider” problem associated with decreased energy use by a customer class.²⁴ It is a straightforward and uniform application of fixed charges to customers. Under SFV pricing, the utility never has to worry about selling enough energy throughout the year to recover all its fixed costs or risk under-collection. SFV pricing would provide a direct way to enhance fixed cost recovery from DG users.

31. While this method would certainly eliminate the fixed cost recovery concerns of utilities, CURB is opposed to utilizing a SFV rate structure because of the disparate impact on low to moderate residential customers. Residential customers that use less energy than the class average would experience bill increases, while above-average customers would see bill decreases. This would unduly harm low-income and fixed income customers and undermine the benefits of energy efficiency and renewable generation investments. With the current two-part rate structure, residential customers pay a fixed monthly customer charge and a volumetric charge that makes up the bulk of their monthly utility bills. Residential customers who control their energy use are able to realize greater savings on bills. CURB believes that this type of cost control is important to residential customers’ overall acceptance of the two-part rate structure. Moreover, adding the recovery of fixed costs in volumetric pricing is seen in many other types of markets, of which most people are familiar. This familiarity with the “pay for what you use” concept is easy to understand and relate to. Customers who are unhappy with the volumetric rate can either: 1) find ways to reduce energy consumption through changing their usage patterns or energy efficiency investments or 2) reduce their dependence on the grid by moving to self-generation. When all of a utility’s fixed costs are transferred to a fixed charge and the

²⁴ Westar Energy, Inc. II at *827.

volumetric charge is reduced, customers now have to pay a higher “premium,” just to be connected to the grid without being provided any additional services.

32. As previously noted, SFV pricing exhibits the unintended consequence of failing to promote energy efficiency and renewable resources.²⁵ Lower volumetric charges decrease the economic value of investing in energy efficiency or renewable generation by reducing the value of the energy saved by these changes. Savings associated with a new heating system or photovoltaic solar arrays take longer to realize as energy gets less expensive. As a result, people may choose to delay or completely forgo such investments. If the primary policy focus is to promote energy efficiency or solar buildout among individual ratepayers, SFV pricing would take Kansas backwards.

33. Beyond the disincentives, CURB is concerned about the most financially vulnerable Kansans who must save money at every turn in order to make ends meet. Diminishing the value of these energy cost-saving efforts harms these customers more severely than those who are able to forgo the practice. The National Association of State Utility Consumer Advocates recognizes these disincentives associated with SFV pricing and urges regulators to reject the imposition of substantial increases to the percentage of revenue recovered through flat, monthly charges.²⁶ Considering the current pandemic and its economic and societal impacts, reducing financial pressures on customers should outweigh the concern

²⁵ Lazar, Jim. *The Specter of Straight Fixed/Variable Rate Designs and the Exercise of Monopoly Power*, Regulatory Assistance Project (August 31, 2015). Accessed at <https://www.raponline.org/wp-content/uploads/2016/05/appendix-d-smart-rate-design-2015-aug-31.pdf>.

²⁶ *Customer Charge Resolution 2015-1*. The National Association of State Utility Consumer Advocates. (June 9, 2015). Accessed at <https://www.nasuca.org/customer-charge-resolution-2015-1/>.

that utilities fail to fully collect their fixed costs from certain customers. Therefore, CURB is opposed to the use of SFV pricing for Evergy Central's residential customers.

iv. Single Tariff for Residential Customers

34. Given the complexities and potential fall-out involved with implementing any of the rate designs offered by the Kansas Supreme Court to satisfy 66-117d, CURB suggests that a reasonable interim solution could be for the Commission to consider moving all the DG customers back into the two-part rate design that is used for the larger Residential class and to allow Evergy Central to track any identifiable under-collections of fixed costs from DG customers in a regulatory asset for recovery in its next general rate case. Although not specifically mentioned by the Kansas Supreme Court, this action would not involve price discrimination on the basis of being a DG customer. All residential customers would take service under the same rate on the basis of cost causation as determined at the end of the last rate case. Under this scenario, only residential DG customers would be subject to a change in rate structure, as compared to the case where all residential customers are moved to a new rate design as a result of implementing an alternative rate design. This approach would also require virtually no changes to the larger residential population's consumption behavior. DG customers would no longer be subject to a demand charge and could continue realizing the savings associated with their DG systems until residential rates are reexamined in Evergy Central's next rate case. As mentioned earlier in these comments, DG customers could also be allowed to take part in Evergy Central's TOU pilot program, as that may allow additional data to be collected regarding the effects of TOU rates on DG customers.

35. Evergy Central’s “free rider” issues can be mitigated with the use of a regulatory asset that tracks any shortcomings associated with DG customers’ lower consumption levels. Evergy Central would be allowed to request recovery of the regulatory asset in its next general rate case. Because of the relatively small DG population and reasonable forecasted growth in that population, the amount of the regulatory asset should not rise to a substantial level. The Commission will be able to set an appropriate method of recovery of this amount, as the Commission determines to be just and reasonable. In the meantime, CURB encourages the Commission to consider ordering a deeper study into the costs associated with serving a residential DG class and any potential benefits, particularly in view of the potential applicability of TOU rates. This information can be used to craft a non-discriminatory, cost-based rate design for the DG subclass that does not risk imposing undue burdens on the remaining residential customers.

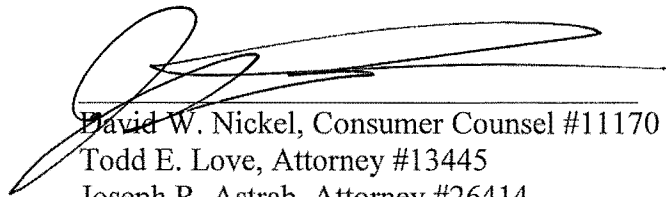
IV. Conclusion

36. At this time, CURB is not endorsing any of the alternative rate designs suggested by the Kansas Supreme Court. These alternative rate structures would, by necessity, create winners and losers within the residential class. While an alternative rate design may pass legal muster, regulators and stakeholders should not lose sight of the underlying economics for each choice. In these regards, CURB believes that SFV rates and declining block rates are inappropriate alternative rate designs to solve the issues brought about by the Kansas Supreme Court’s decision in this case, for the reasons set out above. Moreover, while TOU rates have some potential to be a viable solution if they are carefully studied and crafted, TOU rates have considerable complexity and could entail a substantial amount of discontented ratepayers who

have their bills rise substantially. Instead, CURB suggests that a reasonable interim solution, until this issue can be studied in requisite detail, would be for the Commission to cancel the Residential Standard Distributed Generation tariff, move all the DG customers back to Residential Standard Service, and allow Evergy Central to track any identifiable under-collections of fixed costs from DG customers in a regulatory asset for recovery in its next general rate case. This is not intended to be a long-term solution, but CURB strongly believes that legislative action will provide important guidance for regulators and stakeholders in the future. Any such action will only be as good as the data that supports it. CURB supports conducting additional studies of the costs and benefits associated with having DG customers connected to the grid.

37. CURB looks forward to working with Evergy and the other parties in this docket in a collaborative fashion to explore the options and strike a balance between the interests of ratepayers and the utilities. To that end, CURB reserves the right to modify these comments in view of the comments filed by other stakeholders in this docket.

Respectfully submitted,

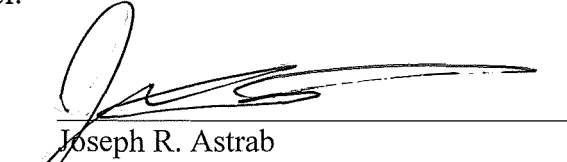


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VERIFICATION

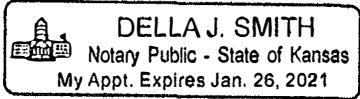
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 14 day of August, 2020.





Notary Public

My Commission expires: 01-26-2021.

CERTIFICATE OF SERVICE

18-WSEE-328-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 14th day of August, 2020, to the following:

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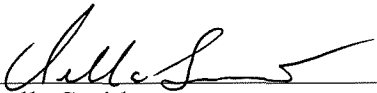
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