BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Southern Pioneer Electric Company for Approval to Make Certain Revenue Neutral Changes to its Rate Design	))))	Docket No. 24-SPEE-415-TAR

STAFF'S POST-HEARING BRIEF

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) hereby submits its Closing Brief to the Commission in the above-captioned Docket on the following issues: 1) whether the Unanimous Partial Settlement Agreement ("Partial Agreement") reached among the Parties meets the Commission's standards of approval for a unanimous agreement; 2) whether it is just and reasonable to allow Southern Pioneer Electric Company ("Southern Pioneer") to implement a mandatory Demand Charge for its currently-classified Residential and General Service Small ("GSS") classes; and 3) whether Southern Pioneer's proposed increases to the Single and Three-Phase classes' Customer Charge is just and reasonable.

I. INTRODUCTION

Staff is supportive of the Partial Agreement, of a three-part rate for residential and small commercial customers, and of the proposed increases to the Customer Charge for the Single and Three-Phase classes. For reasons detailed herein, the Partial Agreement satisfies the Commission's standards of approval for a unanimous settlement agreement.[1]

It is just and reasonable for Southern Pioneer to impose a mandatory three-part rate with a Demand Charge component for what are currently classified as its residential and GSS classes.

[1] *See infra*, Section III, Unanimous Partial Settlement Agreement.

Southern Pioneer's proposal is an attempt to more fully align rate recovery with cost causation. Southern Pioneer's distribution capacity costs are incurred through its ongoing obligation to maintain the infrastructure needed to distribute the maximum amount of energy demanded by customers, regardless of when they demand that energy.

Under the traditional two-part rate structure, customers have paid customer charges and energy charges. Yet an electric utility, broadly, has three categories of cost: customer cost (that associated with servicing a customer base), energy cost (that associated with procuring fuel and purchased power to the customer base), and capacity cost (that associated with the infrastructure necessary to delivery power to the customer base). Traditionally, electric utilities have embedded the demand charge associated with capacity costs in the energy charge. This rate structure "worked," for lack of a better term, because within a class, generally, energy usage and the capacity the utility needed to meet that usage were correlated.

The landscape of the grid today, and looking forward, is rapidly evolving. A three-part rate structure may be necessary to best equip electric utilities and their ratepayers to enter into the future we are facing: one where individual customers within single classes are less homogenous than ever. The two-part rate no longer is practicable for today's customer base. It allows for low usage, high demand (i.e., low load factor) customers to avoid their fair share of capacity costs. The current two-part rate structure is not precise enough to capture the distribution costs individuals may be placing on the system, resulting in those costs being socialized amongst the larger class rather than solely attributed to the cost-causers. Southern Pioneer's proposal to implement a mandatory three-part rate is just and reasonable because it will better reflect changing customer behavior patterns and more accurately capture cost causation.

Finally, the proposed increases to the fixed Customer Charge for Single and Three-Phase customers are just and reasonable given the current inflationary environment. Fixed costs to serve customers have risen, but Southern Pioneer has not increased its Customer Charge since 2020 in Docket No. 20-SPEE-169-RTS. Southern Pioneer's Class Cost of Service ("CCOS") Study showed that both the proposed Single and Three-Phase classes were underpaying the fixed costs to serve them.[2] Staff agrees that increasing the fixed Customer Charge is necessary to align the rate more closely with cost causation.[3]

II. RELEVANT PROCEDURAL HISTORY

1. On November 30, 2023, Southern Pioneer filed an Application with the Commission in which it proposed various revenue-neutral changes to its rate design.[4] Three main objectives impelled Southern Pioneer's filing: 1) address cross-class and intra-class subsidizations occurring under its present rate structure; 2) modernize rates and tariffs to better serve customers' evolving needs and demands, and 3) clarify tariff language for administrative ease.[5] With its Application, Southern Pioneer filed the Direct Testimony of three witnesses.[6]

2. Southern Pioneer later filed an errata notice regarding certain errors made throughout its Application and Direct Testimony relating to the proposed non-coincident peak ("NCP") per kW Delivery Demand Charge for the Sub-Transmission & Transmission Level

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[2] *See* Direct Testimony of Robert Glass on Behalf of KCC, p. 13 (Apr. 2, 2024) ("Glass Direct").
[3] *Id*.
[4] Application for Southern Pioneer Electric Company (Nov. 30, 2023) ("Application").
[5] *See id.*, p. 2.
[6] Direct Testimony of Brian Beecher (Nov. 30, 2023) ("Beecher Direct"); Direct Testimony of Richard Macke (Nov. 30, 2023) ("Macke Direct"); Direct Testimony of Chantry C. Scott ("Scott Direct").

Electric Service ("STR") rate class.[7] Southern Pioneer filed Amended Direct Testimony of two of its witnesses to incorporate corrections made in the Errata Filing.[8]

3. The Commission granted intervention to the Citizens' Utility Ratepayer Board ("CURB"),[9] Air Products and Chemicals, Inc. ("Air Products"), and National Beef Packaging Company, LLC ("National Beef").[10] Together, Southern Pioneer, Commission Staff, CURB, Air Products and National Beef are the Parties to the Docket ("Parties").

4. On March 19, 2024, the Commission held a Public Hearing via Zoom for members of the public who wished to make a formal comment on the contents of Southern Pioneer's Application.

5. On April 2, 2024, Commission Staff filed Direct Testimony for three witnesses[11] and CURB filed Direct Testimony for one witness.[12]

6. On April 9, 2024, Commission Staff filed Supplemental Direct Testimony.[13]

7. On April 11, 2024, CURB filed Cross-Answering Testimony.[14]

8. On May 3, 2024, Southern Pioneer filed Rebuttal Testimony of its three witnesses.[15]

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[7] Notice of Errata, p. 1. (Jan. 16, 2024).
[8] Amended Direct Testimony of Richard J. Macke on Behalf of Southern Pioneer Electric Company (Feb. 16, 2024) ("Amended Macke Direct"); Amended Direct Testimony of Chantry C. Scott on Behalf of Southern Pioneer Electric Company (Feb. 16, 2024) ("Amended Scott Direct").
[9] Order Designating Presiding Officer; Granting CURB's Petition to Intervene; Protective and Discovery Order (Dec. 12, 2023).
[10] Order Granting Petitions for Intervention of National Beef Packaging Company, LLC, and Air Products Chemicals, Inc. (Mar. 12, 2024).
[11] Direct Testimony of Lana Ellis on Behalf of KCC ("Ellis Direct"); Direct Testimony of Kristina Luke Fry on Behalf of KCC ("Luke Fry Direct"); Glass Direct.
[12] Direct Testimony of Glenn A. Watkins on Behalf of CURB ("Watkins Direct").
[13] Supplemental Direct Testimony of Robert Glass on Behalf of the KCC ("Glass Supplemental Direct").
[14] Cross-Answering Testimony and Schedules of Glenn A. Watkins on Behalf of CURB ("Watkins Cross-Answering").
[15] Rebuttal Testimony of Richard J. Macke, Vice-President, Economics, Rates and Business Planning, Power Systems Engineering, Inc. on Behalf of Southern Pioneer Electric Company ("Macke Rebuttal"); Rebuttal Testimony of Brian D. Beecher, Operations and Engineering Manager, on Behalf of Southern Pioneer Electric Company ("Beecher Rebuttal"); Rebuttal Testimony of Chantry C. Scott, Executive Vice-President – Assistant CEO and CFO, on Behalf of Southern Pioneer Electric Company ("Scott Rebuttal").

9. In accordance with the Procedural Schedule governing the Docket,[16] the Parties held settlement negotiations at the Commission's offices and by remote access on May 9, 2024. As a result of those negotiations, the Parties came to unanimous agreement on a number of issues. This agreement is reflected in the pending Joint Motion to Approve Partial Settlement Agreement (the "Agreement") filed with the Commission on May 16, 2024.

10. To resolve two discrete issues of whether it is just and reasonable for Southern Pioneer to impose 1) a mandatory three-part rate with a Demand Charge on its Residential and GSS classes and 2) increases to the Single and Three-Phase Customer Charges, the Commission held an Evidentiary Hearing at its offices and by remote access on June 4, 2024.

III. UNANIMOUS PARTIAL SETTLEMENT AGREEMENT

11. The law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith to settle the dispute.[17] Of the Commission's vast array of cases, settlements are particularly favored when the controversy involves complex litigation taking considerable time and expense to litigate.[18] As a result of settlement discussions, the Parties were able to reach an agreement on all issues aside from the adoption of a residential Customer Demand Charge and increases to the Single and Three-Phase classes' Customer Charge. The Parties' Partial Agreement on the majority of the issues is now presented before the Commission for approval.

12. When approving a settlement, the Commission must make an independent finding that the settlement is supported by substantial competent evidence in the record as a whole,

[16] Order Setting Procedural Schedule (Jan. 18, 2024).
[17] *See Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).
[18] Order Approving Contested Settlement Agreement, ¶ 10, Docket No. 08-ATMG-280-RTS (May 12, 2008) (08-280 Order).

establishes just and reasonable rates, and is in the public interest.[19] Because the Partial Settlement is a unanimous settlement agreement as defined by K.A.R. 82-1-230a, there is no need to apply the Commission's five-factor test for approval of non-unanimous settlement agreements.[20] The Commission has forgone the application of the five-factor test when analyzing prior unanimous settlement agreements.[21]

a. The Partial Agreement is Supported by Substantial Competent Evidence in the Record as a Whole

13. Substantial competent evidence is that "which possesses something of substance and relevant consequences, and which furnishes a substantial basis of fact from which the issues tendered can reasonably be resolved."[22] The "record as a whole" includes evidence that both supports and detracts from an agency's findings.[23] The Commission's ultimate finding must be supported by the evidence in the record that is substantial when considered in light of all of the evidence. A decision approving the Partial Agreement would satisfy this requirement because it is supported by significant competent evidence in the record.

14. Southern Pioneer filed an Application with Direct Testimony from three witnesses in support of its request for revenue neutral rate design changes, in addition to Rebuttal Testimony filed by the same three Southern Pioneer witnesses. Staff vigorously analyzed the Application and formed its own conclusions which were reflected in the Direct Testimony filed by three Commission Staff witnesses. Commission Staff also filed Supplemental Direct Testimony. CURB

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[19] Order on KCP&L's Application for Rate Change, ¶ 15, Docket No. 15-KCPE-116-RTS (Sep. 10, 2015) (15-116 Order) [citing *Citizens' Utility Ratepayer Board v. State Corp. Com'n*, 28 Kan. App. 2d 313, 316 (2000), *rev. denied* 271 Kan. 1035 (2001) (hereinafter, *Citizens' Utility*].
[20] *See* 08-280 Order, ¶ 11.
[21] *See* 15-116 Order, ¶ 15.
[22] *See Southwestern Bell Tel. Co. v. State Corp. Com'n*, 4 Kan. App. 2d 44, 46 (1979), *rev. denied* 227 Kan. 927 (1980).
[23] *See Herrera-Gallegos v. H&H Delivery Service, Inc.*, 42 Kan. App. 2d 360, 360 (2009).

reviewed Southern Pioneer's Application and formed its own conclusions, which it filed in both its Direct and Cross-Answering Testimony.

15. The various testimony filings offered diverse and conflicting perspectives about the issues presented in the case. The Parties' filed positions represent the body of evidence the Commission would rely on to make a determination of the non-litigated issues presented in this case if those issues were to have been fully litigated. The Parties relied on this evidence in negotiations to arrive at a resolution of the issues outlined in the Partial Agreement.

16. The Commission held a Public Hearing whereby the public had the opportunity to make comments on the record for Commission consideration regarding the various issues in the docket. Further, the Commission's General Counsel filed a report in the record that compiled comments received from the public by letter, phone, email, or via the Commission's website.

17. The Commission held an Evidentiary Hearing, at which the Commission had the opportunity to question witnesses and the Parties had an opportunity for cross-examination on any of the issues detailed in the Agreement.

18. The above evidence establishes a record in these proceedings, which contains ample evidence to support Commission approval of the Partial Agreement.

b. The Partial Agreement Establishes Just and Reasonable Rates

19. To analyze whether a settlement agreement results in rates that are just and reasonable, the Commission looks to whether the rates fall within the "zone of reasonableness," as described by the Kansas Supreme Court. Under this analysis, the determination of whether a rate is just and reasonable is predicated upon a balancing test where the following interests are

considered: 1) the utility's investors vs. the ratepayers; 2) the present ratepayers vs. the future ratepayers; and 3) the public interest (the "Ratemaking Balancing Test").[24]

20. While Southern Pioneer does not have "investors" like a traditional Investor-Owned Utility, it does have a governing Board, member-owners, and customers, the interests of which must all be balanced when determining whether proposed rates will be just and reasonable. The Commission is obligated to ensure that Southern Pioneer's rates are no higher than necessary to allow Southern Pioneer to meet its financial obligations and continue to provide efficient and sufficient service.[25]

21. The rates established in this docket are revenue neutral.[26] Given that, the first prong of the Ratemaking Balancing Test, which seeks to balance the interests of the utility with the interests of the ratepayers, is not quite applicable. This proceeding will have no effect on Southern Pioneer's revenue intake as a whole and no effect on the amount of revenue paid on a class-by-class basis.

22. While Southern Pioneer is proposing shifts in rate class designations and the costs allocated within those classes, it will not collect any more or less revenue overall as a result of this case.[27] Not only is the proposed rate design revenue neutral at the Company level, it is also revenue neutral at the class level.[28] This means no class as a whole is expected to pay more or less of its revenue requirement than it currently pays.[29] The Commission has already authorized Southern Pioneer's current retail rates and wholesale local access delivery service charges in its most recent

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[24] *See Kan. Gas and Electric Co. v. State Corp. Com'n,* 239 Kan. 483, 488 (1986).
[25] *See* K.S.A. 66-101b. *See also* Testimony in Support of Unanimous Stipulation and Agreement of Justin T. Grady on Behalf of KCC, 19-240 Docket, p. 11 (Jun. 22, 2020) ("Grady 19-240 Settlement Testimony").
[26] *See* Amended Macke Direct, pp. 24-25.
[27] *See id.*
[28] *See id.*
[29] *See id.*

Formula Based Ratemaking Plan ("FBR Plan") Docket, Docket No. 19-SPEE-240-MIS ("19-240 Docket").

23. Southern Pioneer's FBR Plan has been established and effectuated throughout a series of Commission dockets.[30] Under the FBR Plan, Southern Pioneer annually files for Commission approval of an adjustment to its retail and wholesale Local Access Delivery Service ("LADS") rates using a predetermined formula.[31] That formula calculates the Debt Service Coverage ("DSC") ratio of Southern Pioneer and compares it to a predetermined DSC target.[32] If the result is a DSC that is beneath the target, then a rate increase is implemented; if the DSC is above target, then a rate decrease is implemented.[33]

24. The Commission has analyzed Southern Pioneer's FBR plan using the Kansas Supreme Court's Ratemaking Balancing Test and has consistently determined the FBR Plan strikes an appropriate balance amongst the interests of Southern Pioneer, its members, and its ratepayers, and will result in just and reasonable rates.[34]

25. While its ultimate request is revenue neutral, Southern Pioneer's Application did propose shifts in rate class designations and the costs allocated within those classes. It is Staff's position that the shifts reflected in the Agreement will continue to produce just and reasonable rates.

[30] *See* Amended Scott Direct, p. 6. *See generally* Docket Nos. 13-MKEE-452-MIS ("13-452 Docket") (approving FBR Plan for retail service for a five-year term), 16-MKEE-023-TAR ("16-023 Docket") (approving FBR Plan for 34.5kV service for a three-year term), and the 19-240 Docket (extending FBR plan for retail and 34.5kV service for five years).
[31] Amended Scott Direct, p. 6.
[32] *Id.*
[33] *Id.*
[34] *See* Order Approving Non-Unanimous Settlement Agreement, ¶ 45, 13-452 Docket (Sep. 26, 2013); Order Approving Settlement, pp. 4-6, 16-023 Docket (Mar. 10, 2016); Order Approving Settlement, pp. 8-9, 19-240 Docket (Aug. 11, 2020).

26. One of Southern Pioneer's stated goals in filing its Application was to better align rate designs with cost causation.[35] As part of that effort, Southern Pioneer proposed switching from Residential and General Service Small class designations to Single and Three-Phase class designations. In utility regulation, the cost-causer should be the cost-payer.[36] In accordance with this principle, Staff asserts that rate designs that more closely align cost-causers with cost-payers will result in just and reasonable rates.

27. Better aligning cost-causers with cost-payers will balance the interests of both current and future Southern Pioneer ratepayers because it corrects an inequity. Aligning the cost-causers with the cost-payers as closely as possible reduces and can even eliminate subsidization of one class over another. And, even within a class, an unaligned cost allocation can create subsidization of one sub-class by another. Staff supported Southern Pioneer's rate design proposals and agreed that switching to Single or Three-Phase service made the cost causation link between type of service and rate design better defined.[37] Staff agrees Southern Pioneer's proposed rate design changes further the goal of assigning an equitable share of costs to Southern Pioneer's customers based on cost-causation, which benefits both current and future ratepayers.

28. The third prong of the Kansas Supreme Court "zone of reasonableness" test requires each of those sets of interests – that of Southern Pioneer's board and members and its ratepayers, as well as that of current and future ratepayers—to be balanced against the public interest generally.

c. The Partial Agreement is in the Public Interest

[35] *See* Amended Macke Direct, p. 25.
[36] Glass Direct Testimony, p. 7.
[37] Glass Direct, p. 7.

29. Generally, Staff believes the public interest is served when ratepayers are protected from unnecessarily high prices, discriminatory prices, and/or unreliable service.[38] Southern Pioneer stated several motivations for its request to make various rate design shifts, which Staff believes further the public interest and are reflected ultimately the Partial Agreement: administrative ease, continuity between Pioneer and Southern Pioneer rate designs, and aligning customer costs more closely with rate design by categorizing customers based on phase distinction (Single or Three-Phase) rather than the end-user distinction (Residential or GSS).[39]

30. One administrative frustration experienced by Southern Pioneer is difficulty identifying whether a location is a residence or a business.[40] Southern Pioneer has many customers who use their residences as their place of business.[41] Staff agrees using a Single-Phase and Three-Phase classification eliminates this problem.[42] Determining whether a location is a residence or a business is more subjective than the physical distinction between Single-Phase and Three-Phase service.[43]

31. Pioneer Electric Cooperative, Inc. ("Pioneer Electric"), Southern Pioneer's parent company, has already transitioned to using Three-Phase and Single-Phase service with little issues or misunderstandings.[44] Southern Pioneer and Pioneer share staff, billing systems, and have consumers in the same general area, so the change will relieve some administrative challenges and provide continuity across the two service areas.[45] Since Southern Pioneer and Pioneer share some customers, having the same structure for rate design should be less confusing for customers.[46]

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[38] Grady 19-240 Settlement Testimony, p. 12.
[39] *See* Amended Scott Direct, pp. 8-9; Glass Direct, p. 6.
[40] *See* Amended Scott Direct, pp. 14-15; Amended Macke Direct, pp. 26-27.
[41] *See id.*
[42] *See* Glass Direct, p. 6.
[43] *See id.*
[44] Amended Scott Direct, p. 15.
[45] Application, p. 4. *See also* Amended Macke Direct, p. 27.
[46] *See* Glass Direct, p. 7.

32. Aligning rate design with customer costs results in more equitable cost sharing amongst ratepayers and furthers a basic principle of rate design that cost-causers should align with cost-payers. There are currently many Single-Phase GSS customers being charged the same rates as Three-Phase GSS customers even though there are cost of service differences.[47] The cost of providing Three-Phase service is about twice the cost of providing Single-Phase service.[48] Staff agrees categorizing customers based on phase distinction rather than the end-user distinction would better align rate design with customer costs.[49]

33. Finally, there were multiple interests represented by the Parties involved in the negotiations: Southern Pioneer representing the interests of its business, customers, and members; CURB representing the interests of residential and small commercial ratepayers; Air Products and National Beef representing the interests of large industrial customers; and Staff, balancing each of these interests, while representing the interests of the public generally. The Agreement is the product of extensive discussions among varied and competing interests. Signatories have compromised and found common ground for resolving their respective issues. The fact that these varied interests were able to collaborate and present a resolution of the majority of the issues in this case strongly indicates the Agreement meets the public interest standard.

IV. MANDATORY THREE-PART RATE

34. Southern Pioneer has proposed to implement a three-part mandatory rate design for its currently classified residential and GSS customer classes.[50] The three-part rate would consist of a Customer Charge, which is a fixed charge that covers operating and administrative expenses;

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[47] *See* Amended Macke Direct, p. 27.
[48] *See* Glass Direct, p. 7.
[49] *See* Glass Direct, p. 7.
[50] Pending Approval of the Unanimous Partial Settlement Agreement, the residential and GSS customers will be reclassified into Single-Phase and Three-Phase customers.

an Energy or Delivery Charge,[51] which is a volumetric charge based on the total amount of energy consumed by a customer; and a Demand Charge, which is used to allocate the costs of building, maintaining, and upgrading the distribution infrastructure to deliver energy to the customers.[52]

35. A demand charge is a payment by customers for the electric system capacity their usage requires.[53] The customer is charged a fixed price for each kW of capacity required to serve the customer; that required capacity is known as the customer's "demand".[54] Southern Pioneer's Demand Charge is designed to ensure each individual customer pays for their fair share of the existing and new distribution capacity based on customer's usage of that capacity.[55]

36. Southern Pioneer has proposed a $3.00/kW Demand Charge for Single and Three-Phase customers.[56] The proposal calculates individual customer demand as the fifteen (15) minutes during the month when the most energy was used, measured in kWs.[57]

37. Southern Pioneer has selected a non-coincidental peak methodology to calculate the demand charge, which is the appropriate method in Staff's opinion to measure distribution capacity requirements per customer.[58] The costs placed on the distribution system by an individual customer are not driven by the coincident (or system) peak, they are driven by an individual's peak usage, regardless of when that peak occurs; the required distributional capacity may be more in some areas of the system at off peak times rather than on-peak system times.[59] As such, the timing of usage of distributional capacity varies across Southern Pioneer's system and is dependent upon

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[51] In some portions of the record, Energy Charge and Delivery Charge are used interchangeably. Throughout this Brief, the charge associated with procuring energy for customers will be referred to as the Energy Charge.
[52] Transcript of Proceedings, p. 13, ln. 14-25 (Jun. 4, 2024) ("Transcript").
[53] Glass Direct, p. 15.
[54] *See id.*
[55] *See id.*, p. 20. Although the demand charge could pay for new infrastructure, it will mostly pay for existing infrastructure.
[56] *See id.*
[57] *See id.*
[58] *See id.*
[59] *Id.*

the usage characteristics of customers.[60] Staff believes a non-coincident peak demand charge most accurately captures those usage characteristics.

38. At the Evidentiary Hearing, there was discussion why Southern Pioneer had chosen this proposal over other rate designs, such as a Time-of-Use.[61] Southern Pioneer indicated it was open to the exploration and introduction of Time-of-Use rates,[62] particularly the utilization of Time-of-Use rates to recover generation or transmission related costs.[63] Southern Pioneer reiterated the focus with regard to the proposed changes in the instant docket was the distribution side of Southern Pioneer's system – specifically, at the facilities that have to be there all the time to serve customers, regardless of when they are using energy.[64]

39. Staff agrees that Time-of-Use pricing is more attuned and adept toward the generation side than the distribution side.[65] Since Southern Pioneer's concern is demand in the system's distribution system, then the appropriate type of demand charge is a non-coincident peak demand charge.[66] Staff also notes that implementing a demand charge and time of use rates are not mutually exclusive as they serve different purposes.

40. Staff is supportive of Southern Pioneer's three-part rate proposal. Southern Pioneer requested approval to modify its rate structure to better align costs with rates, recognizing the need for gradualism in rate increases.[67] Staff generally supports efforts to reduce intra-class subsidizations and better align cost recovery with cost causation. Staff agrees that a rate design that aligns fixed costs with fixed charges will ensure that all Southern Pioneer customers are paying

[60] *See id.*
[61] *See* Transcript, p. 41, lines 6-11.
[62] *See id.*, p. 55, lines 2-4.
[63] *See id.*, p. 54, lines 19-23, p. 66, lines 6-9.
[64] *See id.*, p. 65, line 25, p. 66, lines 1-5.
[65] *Id.*, p. 96, lines 23-25.
[66] *See* Glass Direct, p. 20.
[67] Application, p. 3.

their fair share of the fixed costs of the facilities Southern Pioneer must maintain to serve its customers, regardless of their usage patterns.[68] Staff agrees that a $3.00/kW Demand Charge is relatively low, supporting the concept of gradualism.[69] Staff finds Southern Pioneer's usage of a non-coincident peak Demand Charge an appropriate solution to address on-going intra-class subsidies, because this type of Demand Charge captures each individual customer's capacity cost imposed upon Southern Pioneer's distribution system.[70]

41. Staff acknowledges approval of Southern Pioneer's mandatory three-part rate for the currently-categorized Residential and GSS classes would be the first of its kind in Kansas for a privately owned electric utility. Staff does not make this recommendation lightly. There is an existing intra-class subsidy, caused by a variety of different usage and behavior patterns that Staff will highlight below. Not only would a three-part rate better match cost-causers with cost-payers, Southern Pioneer's uniquely situated business model makes it the ideal utility in Kansas to be the first to implement at three-part rate.

a. The proposed Demand Charge will remediate an Unjust Intra-Class Subsidy

42. Under a traditional two-part rate design, customers have paid a customer charge for the fixed costs associated with providing energy to customers and an energy charge for capacity costs and the cost of the energy provided.[71] Under this model, most of the revenue needed to support the cost of operating the distribution system (i.e., capacity cost) has been assessed through a variable Energy Charge.[72] This rate design worked in the past because typically, low energy use customers were also low demand customers and high energy use customers were also high demand

[68] Beecher Direct, p. 4.
[69] *See* Glass Direct, p. 26.
[70] *See* Glass Direct, p. 20.
[71] *See id.*, p. 18.
[72] *See id.*; Amended Macke Direct, p. 33.

customers.[73] And as a whole, the residential and GSS groups were historically fairly homogenous in their usage characteristics.[74]

43. Today, Southern Pioneer is witnessing increased heterogeneity amongst customer groups.[75] Electric customers have unprecedented options, technologies, and control that can impact how and when they use electricity, which in turn impacts the electrical grid and Southern Pioneer's distribution system.[76] For example, low energy use customers may actually be high demand customers due to the adoption of solar distributed generation ("DG") technology.[77] For example, customers with solar DG may purchase no energy, or a small amount of energy, from the utility during a sunny day when they are self-generating; but when the sun goes down, that same customer may purchase a large amount of energy from the utility for a short period of time, creating a large demand for capacity.

44. When a customer decides to install roof-top solar or behind-the-meter generation, that customer typically purchases fewer kWhs from the utility.[78] Southern Pioneer is required to continue to provide and maintain the poles, wires, and substations necessary to serve that customer with distributed generation when the customer's generation resource is not producing energy for whatever reason.[79]

45. Distribution capacity infrastructure carries a significant fixed cost that DG customers avoid paying due to the nature of the two-part rate structure.[80] By embedding capacity costs in the Energy Charge, customers with behind-the-meter generation avoid paying capacity

[73] Amended Macke Direct, p. 33.
[74] Transcript, p. 34, ln. 18-20.
[75] Amended Macke Direct, p. 33.
[76] Amended Macke Direct, p. 33.
[77] *See id.*; Amended Scott Direct, p. 12.
[78] Amended Scott Direct, p. 10.
[79] *See id.*; Glass Direct, p. 18.
[80] Amended Scott Direct, p. 10.

costs when they are able to lower and sometimes avoid the Energy Charge altogether through self-generation.[81]

46. There are also customers with low load factors whose demand spikes periodically due to the intermittent usage of second homes and hunting lodges located within Southern Pioneer's territory.[82] Since a portion of the fixed costs associated with serving these low-load factor customers are collected through the variable Energy Charge, these costs are paid by other customers who use energy more consistently.[83]

47. At the Evidentiary Hearing, it was discussed that electric vehicle customers are another class whose usage and demand are simply different than what the two-part rate can capture adequately.[84] A three-part rate incentivizes EV customers to manage their load and not, say, run multiple appliances while charging in order to avoid setting a high peak demand for the month.[85] This rate structure is well suited to help Southern Pioneer manage the reality that an increasing number of consumers are purchasing EVs.

48. Space heating customers are another subset whose cost placed on the system is not adequately captured under the two-part rate.[86] Space heating customers place a large demand for capacity on the system in the winter mornings.[87] Since these customers require a larger amount of capacity during off-peak times, a peak-based Demand Charge would not capture their capacity requirement. A non-coincident peak based Demand Charge better captures when space-heating customers are placing demand on the system.[88]

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[81] *See* Amended Scott Direct, p. 10.
[82] *See id.*, p. 12; Amended Macke Direct, p. 33.
[83] *See* Amended Scott Direct, p. 12.
[84] *See* Transcript, p. 71, p.72, lines 1-2, p. 117, lines 6-19.
[85] *See id.*, p.70, lines 4-9.
[86] *See id.*, p. 117, lines 6-19.
[87] *See id.,* p. 108, lines 1-19.
[88] *See id.*

49. The Demand Charge should recover capacity-related costs imposed by varying customer usage patterns and eliminate cross-subsidies between low load factor and high load factor customers.[89] A Demand Charge ensures all customers are paying their fair share of the fixed costs to serve them, which insulates other customers from unnecessary cost-shifts.[90] Further, Demand Charges are not new; three-part rate structures have been used for decades in commercial and industrial rates for the same purpose of reducing intra-class subsidization and encouraging efficient use of the grid.[91]

50. A Demand Charge also sends an accurate price signal to customers considering whether to make DG investments.[92] With a three-part rate structure in place, Southern Pioneer will be able to provide customers with accurate information about what their utility bills will look like if they choose to invest in DG technology.[93]

51. Staff agrees that a Demand Charge is the appropriate addition to the rate design to collect capacity costs.[94] The $3.00/kW Demand Charge is appropriately tailored to capture the individual demand put on the system by each customer, and is a relatively conservative charge to introduce customers to the concept.[95] A Demand Charge will help Southern Pioneer collect its capacity costs while reducing the amount an individual customer is subsidizing another because of varying behaviors in energy usage and demand.[96]

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[89] Amended Macke Direct, p. 34.
[90] Amended Beecher Direct, p. 7.
[91] Amended Macke Direct, p. 34.
[92] *See* Amended Beecher Direct, p. 7; Transcript, p. 39, line 25, p. 40, lines 1-3.
[93] *See* Transcript, p. 39, line 25, p. 40, lines 1-14.
[94] Glass Direct, p. 26.
[95] *See id*.
[96] *Id.*

b. Southern Pioneer is an Ideal Utility to Implement a Three-Part Rate

52. Southern Pioneer is a non-profit corporate utility and a wholly-owned subsidiary of Pioneer Electric, a not-for-profit Kansas member-owned electric cooperative not subject to Commission rate regulation pursuant to K.S.A. 66-104d.[97] Southern Pioneer was formed in response to Aquila's sale of its Kansas electric assets.[98] Five member-owner cooperatives of Sunflower Power Corporation (including Pioneer Electric) and Southern Pioneer joined to form Mid-Kansas Electric Company, Inc. ("Mid-Kansas"), a not-for-profit corporation, to acquire and serve the former Aquila service territory.[99]

53. Southern Pioneer operated under a Commission-approved Electric Customer Service Agreement to serve Mid-Kansas communities in Aquila's former service territory, which was then designated the "Southern Pioneer Division" until Docket No. 13-MKEE-447-MIS ("13-447 Docket"), where the Commission granted Southern Pioneer public utility status.[100]

54. Of the six original owners of Mid-Kansas, Southern Pioneer is the only entity that is not a customer-owned cooperative.[101] Due to that fact, it is not able to elect to self-regulate under K.S.A. 66-104d and is fully regulated by the Commission.[102]

55. Southern Pioneer is uniquely situated amongst the Commission's regulated utilities because it is a not-for-profit, taxable corporation owned by another Kansas cooperative.[103] Southern Pioneer does not have a profit motive; it simply seeks to recover its actual costs, plus the margin required by its lenders, in the most economically efficient and fair method possible. Staff

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[97] *See* Application, p. 1.
[98] Amended Scott Direct, p. 4.
[99] Amended Scott Direct, pp. 4-5.
[100] *See id.*, pp. 5-6.
[101] Direct Testimony of Justin T. Grady on Behalf of KCC, p. 6, 19-240 Docket (May 11, 2020) ("19-240 Grady Direct").
[102] *Id.*
[103] *See id.*

has recommended unique ratemaking treatment in the past for Southern Pioneer.[104] Southern Pioneer has a Formula Based Rate plan that implements a Debt Service Coverage ratio, which is a rough substitute for the margin of cash flow over debt servicing payments.[105]

56. Staff has supported an alternative ratemaking structure for Southern Pioneer on the basis that it lacks traditional profit motives of an investor-owned utility.[106] Staff supports an alternative rate design in the form of a Southern Pioneer's proposed mandatory three-part rate for the same reason.

57. Southern Pioneer presents a salient test case for the introduction of a mandatory three-part rate for the Residential and GSS classes for three additional reasons. First, Southern Pioneer is a relatively small utility, serving approximately 17,000 customers.[107] Yet with a service territory across Barber, Clark, Comanche, Haskell, Kingman, Kiowa, Meade, Pratt, Reno, and Seward counties,[108] Southern Pioneer's reach is large enough that the introduction of a Demand Charge will affect a diverse group of customers.

58. Second, the owner of Southern Pioneer, Pioneer Electric, already has introduced a Demand Charge for all classes and received no customer complaints from its members in its implementation.[109] This experience is critical because Southern Pioneer and Pioneer share the same management. Modeling Pioneer Electric's communication plan, Southern Pioneer has a well-tested customer education program and marketing materials at ready, and they are adept at anticipating the questions and challenges that will arise when a three-part rate is rolled out for the first time.[110]

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[104] *See* 19-240 Grady Direct, p. 6.
[105] *See id,*, pp. 7-8.
[106] *See id.*, p. 6.
[107] Application, p. 1.
[108] *Id.*
[109] *See* Amended Scott Direct, p. 17.
[110] *S*ee *id.*, p. 13.

59. Third, the proposed Demand Charge is small relative to the actual costs of capacity according to Staff's class cost of service, supporting the concept of gradualism that is important to Staff and the Commission.[111] The relative size of this demand charge will help customers adapt to the change, thus minimizing any potential disruption or spike in monthly bills.[112]

60. Staff supports Southern Pioneer's mandatory three-part rate design because it would better match cost-causers with cost-payers, thus reducing the intra-class subsidization borne by the two-part rate structure, and Southern Pioneer's uniquely situated business model makes it the ideal first utility in Kansas to implement such a rate structure.

c. Opponent's Arguments

61. CURB opposes the mandatory three-part rate for five overarching purported reasons: 1) it is confusing for customers;[113] 2) the small amount of DG customers does not impact the system enough to justify altering the existing two-part rate;[114] 3) the rate will inhibit the development of renewable generation within Southern Pioneer's territory;[115] 4) the rate does not promote energy conservation;[116] and 5) no regulated investor-owned utility in the United States has a mandatory three-part rate for residential customers, so Southern Pioneer should not have one.[117] Staff disagrees with each of these arguments and believes the record is replete with evidence to counter each.

62. The roll-out of the three-part rate should not be confusing for customers because Southern Pioneer's management has proven experience introducing a three-part rate for the same

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[111] *See* Glass Direct, pp. 22-23.
[112] *See id.*, p. 26; Amended Macke Direct, p. 33.
[113] *See* Watkins Direct, pp. 13-14.
[114] *See id.*, pp. 9-10.
[115] *Id.*, p. 7.
[116] *See id.*, p. 8.
[117] *See id.*, p. 11.

classes of customers at the Pioneer Electric level. Of course, the individual customers between Pioneer Electric and Southern Pioneer are different, but Staff finds it compelling that Pioneer Electric experienced no customer complaints after introducing its three-part rate, which Pioneer Electric credits largely towards its customer communication plan.[118]

63. At the time of filing, Southern Pioneer had 35 residential and 3 commercial DG installations on its system.[119] At the Evidentiary Hearing, Southern Pioneer estimated that amount has increased since it filed its Application.[120] While Staff understands there currently are a minimal amount of DG customers on Southern Pioneer's system, Staff does not believe that negates the need for the Commission to address the existing subsidy. In Staff's opinion, the longer the subsidy is allowed to accrue, the more complex and costly it will be to correct.

64. Southern Pioneer has provided evidence to demonstrate that the intra-class subsidy occurs due to customer usage characteristics aside from DG.[121] Southern Pioneer seeks to implement the rate changes now so it can get ahead of significant DG growth and electrification, which will send the correct price signals to customers considering making DG investments.[122]

65. While DG customers are a part of the need for Southern Pioneer's proposed three-part rate, they are not the sole reason this change is necessary; in response to varying customer behaviors, Southern Pioneer seeks the rate change to move toward a more equitable, cost-reflective rate structure that promotes efficiency and avoids the subsidization of some customers at the expense of others.[123]

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[118] Amended Scott Direct, pp. 12-13, 17.
[119] Amended Scott Direct, p. 10.
[120] Transcript, p. 34, ln. 24-25.
[121] *See id.* ; Amended Scott Direct, p. 12.
[122] *See* Transcript, p. 39, lines 13-25, p. 40, lines 1-9.
[123] Scott Rebuttal, p. 3.

66. Aligning cost-causation with cost allocation is a core principle of utility regulation.[124] Staff believes utilities should put forth practical and reasonable solutions to reduce cross-subsidizations, which for Southern Pioneer, is its proposed three-part rate. CURB's witness admitted at the Evidentiary Hearing that capacity maintained by Southern Pioneer generally has a cost associated with it, and customers should pay that cost.[125] Right now, as described by Southern Pioneer, subsets of customers are not paying their equitable shares of that cost. CURB's witness also agreed that a non-coincident peak captures how much demand an individual customer places on the system in a given month.[126] Capturing how much demand each individual customer places on the system each month allows Southern Pioneer to properly allocate distribution costs equitably to the customers causing those costs.

67. Staff disagrees that the three-part rate will inhibit the development of renewable generation for three reasons. First, Staff believes incoming federal subsidization of DG technology will greatly offset the $3.00/kW Demand Charge proposed by Southern Pioneer.[127] Second, an improved rate design allows Southern Pioneer to provide more marginal cost-based price signals that will help customers choose activities that are economically efficient for them.[128] Third, Southern Pioneer has repeatedly dismissed the allegation that it is in any way attempting to inhibit renewables.[129]

68. Southern Pioneer's past and present actions have proven Southern Pioneer is not seeking to inhibit renewable generation on its system. Recognizing that growing numbers of customers are interested in this type of technology, Southern Pioneer has offered customers a

[124] Glass Direct Testimony, p. 7.
[125] *See* Transcript, p. 83, lines 23-25, p. 84, lines 1-4.
[126] Transcript, p. 84, ln. 5-8.
[127] See *id.*, p. 105-106.
[128] *See* Amended Macke Direct, p. 34.
[129] *See* Scott Rebuttal, p. 3.

variety of options to support and facilitate renewable energy development in its territory.[130] For over a decade Southern Pioneer has voluntarily offered its residential and small commercial customers with behind-the-meter generation the opportunity to participate in a net-metering program, pursuant to a Commission-approved Rider.[131] Southern Pioneer is currently seeking approval of a Renewable Energy Program Rider for its residential and commercial and industrial customers.[132] Southern Pioneer's power supplier, Sunflower Electric Power Corporation, of which Southern Pioneer is part-owner, transmits wholesale solar and wind energy to Southern Pioneer from multiple renewable energy resources and is developing plans to own, operate, or deploy under contract two additional solar resources.[133] Staff believes the Company has proven it is not inhibiting the development of renewable generation.

69. There is no compelling evidence in the record to support CURB's assertion that the three-part rate will somehow not promote energy conservation. CURB argues that a reduced Energy Charge is contrary to a policy of promoting energy conservation, but offers no further explanation of why.[134] Staff can assume the underlying thought is that a reduced energy charge will lead customers to use energy more liberally; and, if the only change in the proposed rate structure was a reduction to the Energy Charge, that certainly might be true.

70. As CURB acknowledges, the addition of the Demand Charge means a customer's billed demand would be fixed once the customer reaches their peak load for the month.[135] Staff disagrees this rate element has "no effect on promoting energy conservation." Rather, Staff would argue a Demand Charge does promote energy conservation. A Demand Charge ultimately sends a

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[130] *See* Scott Rebuttal, p. 4.
[131] *Id*.
[132] Scott Rebuttal, 3-4.
[133] *See id.*, p. 4.
[134] *See* Watkins Direct, p. 8.
[135] *Id*.

price signal to customers to consume energy more consistently throughout the month to avoid setting a large peak. In so doing, it is very possible customers will become more conscientious of their usage, and use less overall.

71. At the very least, under a non-coincident peak Demand Charge, individual customers are incentivized to use energy more consistently and thus more efficiently, avoiding large rushes of demand. For example, the price signals sent by a demand charge would deter electric vehicle customers from charging at a time when the load factor is high for the rest of the house, such as when other appliances are in use, because doing so can set high peaks, stress the distribution system, and cause cost increases.[136] Staff found no merit in CURB's argument that Southern Pioneer's rate design proposal should be rejected simply because no other regulated electric utility has implemented a mandatory three-part rate for residential customers. Staff conducted an independent analysis of Southern Pioneer's Application and determined that Southern Pioneer's uniquely situated business model makes it a good candidate to implement the proposed mandatory three-part rate for its residential customers, as discussed above.[137] There's always going to be a "first" when implementing a "new" good idea. Southern Pioneer happens to be that utility. Staff independently evaluated Southern Pioneer's Application based on the facts and circumstances facing Southern Pioneer, and has concluded that a three-part rate make sense for this utility at this time.

72. Staff would emphasize again that Southern Pioneer is a uniquely situated utility in that it is not investor-owned; that fact played a large role in Staff's support for Southern Pioneer's mandatory three-part rate at this time. Whether Staff would support a similar rate design for another regulated utility in the state would be dependent upon a vigorously-analyzed, utility-

[136] *See* Transcript, p. 71, lines 22-25, p. 72, lines 1-2.
[137] *Supra*, Section IV.b.

specific inquiry. For Southern Pioneer at this time, a three-part rate is reasonable, in the public interest, and should be approved by the Commission.

V. CUSTOMER CHARGE

73. Southern Pioneer's Residential customers currently pay a Customer Charge of $14.67.[138] Under the new proposal, Residential customers that would move to the Single-Phase Class would pay $16.67 and Residential customers that would move to the Three-Phase Class would pay $22.98.[139]

74. Southern Pioneer GSS customers currently pay a Customer Charge of $22.74.[140] Under the new proposal, GSS customers that would move to the Single-Phase Class would pay the Single-Phase Class charge of $16.67, so their Customer Charge would actually decrease.[141] GSS customers that would move to the Three-Phase Class would pay a Customer Charge of $22.98.[142]

75. Southern Pioneer's CCOS showed that the Customer Charge should be about $36.50 for the Single-Phase Class and about $78.43 for the Three-Phase Class for Southern Pioneer to recover its fixed costs.[143]

76. Southern Pioneer proposed the increases to the Single-Phase and Three-Phase classes' Customer Charges because recovering more of the consumer costs in the Customer Charge is aligned with principles of cost causation and reduces intra-class subsidies.[144] The present Customer Charge of $14.67 is too low and it forces consumer-related costs to be partly recovered in the Energy Charge,[145] which results in customers paying different amounts of customer-related

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[138] Glass Direct, p. 12.
[139] *Id.*
[140] *See id.*
[141] *See id.*
[142] *Id.*
[143] *Id.*, p. 13.
[144] Macke Direct, p. 30.
[145] *Id.*

fixed costs depending upon how much energy they consume.[146] Southern Pioneer asserts this is not reflective of cost causation and results in subsidization between customers based on how much energy they use.[147]

77. Staff supports Southern Pioneer's proposal to increase the Customer Charge for the Single and Three-Phase classes. Southern Pioneer has not increased its Customer Charge since 2020, and Staff does not view the increases as unreasonable given that fixed costs have risen since 2020.[148] More compellingly, Southern Pioneer's evidence showed its current charges were well below the customer cost of service.[149] Southern Pioneer's approach to moderately increase the Customer Charges, keeping each class's well below the customer cost of service, is in line with the principle of gradualism.[150]

78. CURB is opposed to any increase to Southern Pioneer's Customer Charges. CURB believes equitable pricing of a regulated utility's goods and services should reflect the benefits received for the goods and services, so that those who use more energy are receiving more benefits and thus should pay more.[151] CURB's philosophy is that volumetric pricing promotes the fairest pricing mechanism.[152]

79. Staff fears CURB's philosophy is ill-fit for the developing grid of the future. With greatly varying load factors, times of usage, and behavior patterns even within single classes, it is overly simplistic to assume that straight consumption is the only measure of benefit derived from a customer's access to and reliance upon Southern Pioneer's grid. Further, it has been and

[146] Macke Direct, p. 30.
[147] *Id.*
[148] *See* Transcript, p. 37, lines 6-16.
[149] Glass Direct, p. 15.
[150] *See id*.
[151] Watkins Direct, p. 19.
[152] *Id*.

continues to be imperative that the intra-class subsidies caused by varying customer usage and behavior patterns be righted.

80. Staff believes the proposed increases to Southern Pioneer's Single and Three-Phase Customer Charges are just and reasonable. The adjustments further the goal of aligning cost causation with cost allocation. They ensure Southern Pioneer is recovering more of its fixed cost to serve customers and reduce the existing intra-class subsidy while staying true to the principle of gradualism, minimizing cost impact to customers.

WHEREFORE, Staff respectfully submits its closing brief in this matter and requests the Commission approve the Unanimous Partial Settlement Agreement, and approve Southern Pioneer's proposals for a mandatory three-part rate with a Demand Charge and for increases to the Single and Three-Phase classes' Customer Charges.

Respectfully submitted,

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