

initial comments with supporting affidavits by March 17, 2017 and reply comments with supporting affidavits by May 5, 2017.

5. On March 17, 2017, Staff and other parties filed initial comments with supporting affidavits as required by the Commission's Order Setting Procedural Schedule. On May 5, 2017, Staff and other parties filed reply comments with supporting affidavits, also as required by the Commission's Order Setting Procedural Schedule.

6. Two roundtable discussions were held; one on March 30, 2017, and one on April 13, 2017 pursuant to the Commission's Order Setting Procedural Schedule. Additionally, a settlement conference was held on June 5, 2017, pursuant to the Prehearing Officer Order Modifying Procedural Schedule.

7. On June 16, 2017, Staff, Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, Westar), Kansas City Power & Light Company (KCP&L), Sunflower Electric Power Corporation (Sunflower), Mid-Kansas Electric Company, LLC (Mid-Kansas), Southern Pioneer Electric Company (Southern Pioneer), Kansas Electric Cooperatives, Inc. (KEC), Midwest Energy, Inc. (Midwest Energy), Empire District Electric Company (Empire), Brightergy, LLC (Brightergy), United Wind, Inc. (United), and International Brotherhood of Electrical Workers, Local Union No. 304 (IBEW) filed a Joint Motion to Approve Non-unanimous Stipulation and Agreement (hereinafter "NSA"), seeking Commission approval of the NSA reached by the jointly moving parties.³

8. On June 20, 2017, parties filed testimony either in support or opposition of the Non-Unanimous Stipulation and Agreement (hereinafter "NSA") in accordance with the Prehearing Officer Order issued June 9, 2017.

9. On June 27 and 28, 2016, the Commission held a public hearing on the docket, including the NSA and required submission of briefs by July 21, 2017.

³ Brightergy and United Wind have chosen not to sign the NSA; however, they have indicated that they do not oppose the terms of the NSA.

II. Discussion

Kansas Electric Cooperatives, Inc., on behalf of our member cooperatives (hereinafter "KEC"), fully support the joint motion to adopt the NSA, with a minor change suggested in paragraph 32, *infra*, jointly submitted by a number of parties in this docket. In support of that motion, and as its reply brief in the docket, KEC states and avers as follows:

10. Kansas electric cooperatives support DG for their member-owners and include renewable resources in the utility-wide generation "mix" of resources provided to their member-owners. In addition, cooperatives often provide input and support for individual member's DG efforts. However, as noted by Sunflower in its initial comments, DG is often a renewable source, and is be intermittent in nature. Wind does not always blow in a "collectible" fashion and the sun does not always shine. This DG resource intermittency creates issues and costs for the utility. A utility must keep facilities in place to serve the customer and it is much more costly and difficult for a utility to dispatch generation responding DG fluctuating systems. The utility has no control over DG customer's intermittent and unexpected demands but must be able to meet those demands ⁴

11. Generally, a utility needs to have sufficient capacity reserves to serve DG customers during their non-production periods including their planned and unplanned outages. To do so, utilities must have sufficient generation or power supply in place to provide service, and additionally secure or provide for adequate transmission and distribution facilities to move the power from a generation source to the DG customer's load. Those facilities are still in existence even when the DG customer is not using them, and must be available for use whenever the customer's generation facility cannot provide adequate supply. Further, providing service and

⁴ See, generally, Initial Comments of Mr. Bradley D. Lutz; Initial Comments of Westar Energy Inc. and Kansas Gas and Electric Company Regarding Cost-Based Rates for Customers with Distributed Generation; Sunflower and Mid-Kansas Initial Comments; *Distributed Energy Resources Rate Design and Compensation* manual, NARUC and others.

being prepared to provide service results in costs, and an appropriate allocation of those costs must be determined for both DG and non-DG customers.

A. DG impact on rates and the electric industry in Kansas.

12. Private and residential DG implementation in Kansas, as noted in several comments, briefs and at the roundtables held in this docket, is not widespread or as robust as in some other states in the United States.⁵ However, KEC is very supportive of this docket and the Commission and staff's desire to examine the topic and its impact. The dearth of data noted during the docket indicates that a future docket may be necessary to examine more robust data if DG implementation takes off in the state in the future.

13. Kansas' electric utilities have embraced DG, often incorporating DG generation, such as wind and solar as a part of the generation mix provided to their customers.⁶ So the industry has familiarity with the DG resource.

14. Over the years, Kansas' electric utilities had learned to, and could adequately forecast, business needs, like load, dispatch and system requirements, in a pre-DG implementation world. The DG customer has created a change or a unique situation in the current electric business model and for the electric grid. The DG customer creates a reduced electric load, either in whole or in part, by utilizing the DG resource. However, at other times, on both a regular and irregular basis, the DG customer expects to have delivered the same electric services that the customer enjoyed before the DG was implemented. True, future technology may reduce the DG customer's needs and irregularities created by DG load, through improved storage, for example.

⁵ See, generally, Initial Comments of Mr. Bradley D. Lutz; Affidavit of William G. Eichman on Behalf of the Empire District Electric Company.

⁶ See, generally: Initial Comments of Mr. Bradley D. Lutz; Note: Midwest Energy's solar farm near Colby; KEPCo's solar farm near Benton; Sunflower, KEPCo and Westar's incorporation of wind generation into their generation mix.

15. In addition, generation dispatch adds a layer of consideration. Generation dispatch is performed in Kansas by the Southwest Power Pool (SPP). A generation utility, at least at present, cannot rely on the DG being available during peak hours. A Kansas utility receiving SPP generation dispatch must have enough accredited capacity to fully cover their DG customers' peak loads even though during certain times their load required may be reduced by their own generation. A Kansas utility's capacity obligation to cover load, including DG load and reserve requirements is not reduced by the full amount of the DG customer's generation.⁷

16. There are clear differences between a DG customer and a non-DG customer, to the utility, contrary to the NSA opponents' statements. There are three (3) very apparent and simple differences between DG and non-DG customers of any utility. First, the DG customer is a partial requirements customer to the utility, generating all or some portion of their own electricity and rely on the utility for the remainder of their needs or for backup in times when generation is not sufficient. Second, DG customers store excess energy, in effect, on the grid, to be withdrawn later. Finally, in some instances, DG customers sell excess energy to the host utility. Those factors summarize the basic DG customer differences..⁸ In addition, KEC points out that the opponents' claims that load factors for DG customers are similar to non-DG customers is not a true measure or valid indicator of similarity. The DG customer's load profile is vastly different in comparison to a non-DG customer load profile.⁹

17. KEC notes with interest a dilemma created within the arguments of the opponents of the NSA. On one hand, all the parties agree there is a paucity of private DG implementation

⁷ Sunflower and Mid-Kansas Initial Comments. Page 3. paragraph 7.

⁸ See generally, *Distributed Energy Resources Rate Design and Compensation* manual, NARUC, pages 75-78.

⁹ Initial Comments of Westar Energy Inc. and Kansas Gas and Electric Company Regarding Cost-Based Rates for Customers with Distributed Generation, page 8.

and information. Yet, the opponents of the NSA oppose a utility examining DG customers separately, either as a proposed separate rate class or subclass during a rate study or rate review. Without some effort to segregate data on DG customers, as suggested in the NSA, Kansas electric utilities and their customers will continue to be plagued by information deficit.

B. Rates should be cost based; there is no demonstrated need for “value” or cost-benefit studies

18. KEC, as numerous other proponents of the NSA agree, believes that the utility’s cost-of service or rate study, in the parameters of the NSA, provides adequate ratemaking information to set rates. The proponents of the NSA agree that only market-based costs and benefit should be considered when setting rates for private DG customers.¹⁰ There is no credible evidence that any added “benefit” value” studies are any assistance in setting rates for a rate class in a particular utility. Neither the Climate and Energy Project or Citizen Utility Ratepayer’s Board witness could provide a direct link between such studies and rates.¹¹ Value of Solar studies also have inherent issues. There is no accepted or standardized methodology. Studies across the United States on the Value of Solar have come up with startlingly different results for the values for electricity.

19. There appears to be a paucity of testimony to support the concept that added cost-benefit or value studies would assist the ratemaking process or add significant information to a cost-of service study in the ratemaking process.¹²

¹⁰ See, *inter alia*; Glass Initial Affidavit, pages 2-9.

¹¹ See, generally: Reply Comments of Southern Pioneer, page 2- 3, paragraphs 3-7; CURB Reply comment by Catchpole Reply pages 6-7.

¹² See, generally, Citizens' Utility Ratepayer Board; , Kalcik's Reply Comments, page 12; Citizens' Utility Ratepayer Board Kalcik Hearing Transcript (Volume 2, pages 280 to. 288); Cromwell Testimony in Opposition to NSA, page 2,

20. There are three additional points counter to the NSA opponents' contentions. First, nothing prohibits the Commission, in the context of a pending rate case from ordering such added information be provided through a specific study. Second, nothing would prevent a utility with a sufficient "mass" of DG implementation from undertaking a study or seek added information on its own volition. Finally, nothing would prevent the DG industry, including the opponents of the NSA, from undertaking such studies and providing the results to the utility and or the Commission. Requiring unspecified review of benefits or values as a utility is setting rates for its customers is not necessary.

C. The NSA addresses the current and near future DG needs of Kansas

21. The NSA creates, at minimum, a framework for electric utilities to address DG implementation. It is clear, from the comments and information submitted, that DG is not widespread across the state. The utilities anticipate added DG in the future, but the rate of DG implementation is difficult to forecast in a service territory or within the state in general.

22. The NSA framework is flexible with enough option to allow a utility to consider its own unique circumstances. The NSA does not mandate a specific structure or approach but does indicate any rate structure should be developed based on substantial and verifiable information, data and analysis.

23. The NSA and DG implementation may need to be addressed in a future docket, that can be opened by the Commission on its own volition, as the result of settlement in other rate design dockets or by petition of any member of the industry.¹³

24. The NSA indicates that the Commission should find that the existing two-part rate structure is inadequate for residential private DG customers and that:

¹³ See; Unanimous Stipulation and Agreement in Docket Number 15-WSEE-115-RTS.

- (i) a three-part rate consisting of a customer charge, demand charge, and energy charge,
- (ii) a grid charge based upon either the DG output or nameplate rating, or
- (iii) a cost of service-based customer charge that is tiered based upon a customer's capacity requirements would be appropriate for residential private DG customers to better recover the costs of providing service to that class or sub-class of customers.¹⁴

A Commission finding approving the NSA does not mean a wholesale move to a three-part rate under the NSA- nor any other rate, for that matter. A finding of inadequacy of a two-part rate does not mean, with sufficient justification, such a rate cannot exist in the future. The NSA provides for a number of options to be considered while crafting rates that are based on costs for customers utilizing private DG systems.

25. One of the major complaints of those opposing the NSA is a lack of information about DG implementation and incorporation within the electric grid in the state. The NSA provides for both clarity of rates and more definitive DG information, noting that "... DG customers should be uniquely identified within the ratemaking process because of the potentially significant different usage characteristics. Utilities may create a separate residential class or sub-class for DG customers with their own rate design, which appropriately recovers the fixed costs of providing service to residential private DG customers, or a utility may continue to serve residential private DG customers within an existing residential rate class if the utility determines there are too few DG customers to justify a separate residential private DG class or sub-class or determines that other justification exists to retain those customers in the existing rate class...."¹⁵ Utilities that choose to separate the DG customer for rate examination should

¹⁴ Testimony of Jeff Martin in Support of Stipulation and Agreement Westar Energy, Inc. filed in this docket June 20, 2017.

¹⁵ Submitted Non-Unanimous Stipulation and Agreement, June 16, 2017; *See also*, paragraph 32.

be aptly able to review pertinent information about DG implementation in the future, creating a more robust atmosphere for individual or private DG utilization.

26. In contrast to some of the testimony by those opposing the NSA, the NSA provided clearly states that "...A separate rate class for DG customers is not meant to punish those customers, rather such a rate class would serve to provide clarity for both utilities and customers...." Nor are any of the suggested rates or solutions required of a utility. A utility could reasonably surmise that there is not enough DG implementation within its customer base or service territory to create a new rate, divide the DG customers into a class or sub-class, or take on any of the other solutions created in and suggested by the NSA in a rate study. The NSA allows sufficient flexibility for a utility to consider DG implementation in rate considerations as does not REQUIRE a separate class or sub-class.

27. The NSA is not merely about rates and rate classes. The terms are far-reaching and should benefit DG customers and the state. It includes terms related to customer education, the scope of a value of resource study in the event the Commission determines such a study is required in a future proceeding, grandfathering, and limited applicability to cooperatives that have elected to be self-regulated.¹⁶

28. A great deal of discussion was had about "benefits" of DG. The utility may well, indeed, benefit by future avoided costs.¹⁷ However, quantifying the same today, with the acknowledged dearth of information is difficult.¹⁸ It is interesting that the opponents do not acknowledge that the federal government has already provided benefits to DG users. KEC would support the concept that the federal government has estimated potential societal benefits associated with DG, and has quantified benefits through the various tax incentives and credits

¹⁶ See, generally: paragraph 12, 14, 16 and 17 of the submitted Nonunanimous Stipulation and Agreement.

¹⁷ See; Affidavit of William G. Eichman On Behalf of the Empire District Electric Company, page 3-4, paragraph 8.

¹⁸ See, generally, Sunflower and Mid-Kansas Initial Comments, page 3, paragraph 8; Staff comments, Motion to Intervene and Response of Westar Energy, Inc. and Kansas Gas and Electric Company to Staff's Motion to Open Docket, filed March 24, 2016); Order Opening General Investigation, filed July 12, 2016).

for DG implementation, which provides direct monetary benefits to the DG customers.¹⁹ We agree with the following statement:

"Any 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."²⁰

29. There has been a great deal of discussion about the inadequacy of rate studies in providing some kind of "credit" for unspecified DG benefits, such as benefits to society and health. It must be remembered that all utilities operate as a business, first and foremost, whether they are municipal, investor-owned or cooperative. Customers expect reasonable safe, and affordable electricity. Cooperative members expect to pay the costs associated with their electric service- but to provide price breaks for assumed or presumed societal or health benefits is not a true "business" based decision.

30. DG implementing customers, in many instances, already reap benefits related to unquantifiable benefits of DG. KEC agrees with Empire that quantified costs and benefits relating to DG production that will increase or decrease the costs and/or revenues that are able to be recorded in a utility's accounting system should be considered as new rates are discussed and considered. However, the opponents suggestion that a utility should somehow attempt to quantify the unquantifiable or create artificial costs to be recovered for the purpose of passing on benefits to DG customers in the form of subsidized rates is unreasonable.²¹

31. Finally, the NSA is a result of information, discussion and compromise among the parties. As this Commission has explained, "... In general, Kansas favors compromising and settling disputes when the agreement is entered into intelligently, and in good faith...." ²²

¹⁹ See also: Affidavit of William G. Eichman on Behalf of the Empire District Electric Company, page 4, paragraph 9.

²⁰ Sunflower and Mid-Kansas Initial Comments, Page3, paragraph 8.

²¹ Affidavit of William G. Eichman on Behalf of the Empire District Electric Company, page 3, paragraph 7.

²² In *Re Atmos Energy*, Order Approving Contested Settlement 20 Agreement, Docket No. 08-ATMG-280-TS, at ¶ 10 (May 12, 2008); ²¹ see also *Bright v. LSI Corp.*, 254 Kan. 853, 858, 869 P.2d 686, 690, 1994.

Approving the NSA achieves and honors the work and desires of the majority of the parties and the process that resulted in the final NSA.

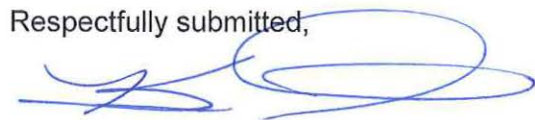
32. KEC agrees with Westar witness, Mr. Jeff Martin, that the word "and" should be changed to "or" in paragraph 11 of the NSA because the listed rate designs are meant to be alternatives.²³

III. Conclusion

In closing, KEC appreciates the time and effort expended by the Commission, staff and the other participants in this docket. KEC urges the Commission to approve NSA, with the change approved in paragraph 32, *supra*, thus approving a process that enables Kansas' electric utilities adequate structure to review DG, now and in the immediate future.

The approval of the NSA sufficiently addresses the scope, under Commission order, for this Docket. It represents compromises supported by a majority of the parties and is based upon the evidence available in the docket. The NSA will provide a framework and guidance in DG rate setting. The NSA allows a utility to review its unique standing, needs and customer base, while making cost-based charge and rate decisions that benefit all customers, not solely the DG customer. There is no impediment by approving the NSA to future any future review of the status of DG rate-making in Kansas. Nor does approving the NSA needlessly or carelessly create unquantifiable benefits, shift costs to non- DG customers or other fears expressed or implied by the opponents to the NSA. We respectfully urge the Commission to adopt the NSA.

Respectfully submitted,



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²³ Jeff Martin, Westar, Hearing Testimony, KCC Hearing Transcript, Volume I at 130-31.

VERIFICATION

STATE OF KANSAS)

)

SS.

COUNTY OF SHAWNEE)

Kim E. Christiansen, of lawful age, being duly sworn upon her oath deposes and states:

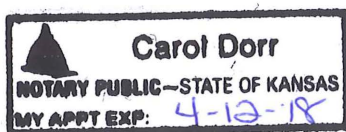
1. that she is Counsel for Kansas Electric Cooperatives, Inc.,
2. that she has read and is familiar with the foregoing Initial Post-Hearing Brief, and attests that the statements therein are true to the best of her knowledge, information and belief.



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SUBSCRIBED AND SWORN to before me this 26th day of June, 2017.

My Appointment Expires: 4-12-18



CERTIFICATE OF SERVICE

16-GIME-403-GIE

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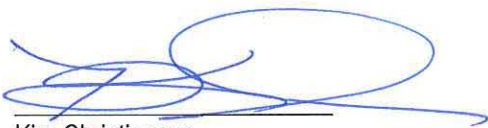
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