

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

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

**MOTION TO OPEN DOCKET**

The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively) files its Motion to Open Docket to request a general investigation to examine various issues surrounding rate design for distributed generation customers. In support of its motion, Staff states as follows:

1. On September 24, 2015, in the Commission’s Order Approving Stipulation and Agreement in docket number 15-WSEE-115-RTS, the Commission directed Staff to file a Report and Recommendation outlining specific issues to discuss, research and evaluate in a manner consistent with the terms of the Stipulation and Agreement between parties to Westar’s last general rate proceeding.<sup>1</sup> The Commission order further directed Staff to coordinate with the parties to Westar’s last general rate proceeding and other Kansas-jurisdictional public utilities on the initial outlaying of issues.<sup>2</sup>

2. Staff drafted its Report and Recommendation as directed by the Commission, and on January 22, 2016, Staff circulated its draft among the parties to Westar’s general rate proceeding as well as other Kansas-jurisdictional public utilities, seeking feedback on the initial outlaying of issues.

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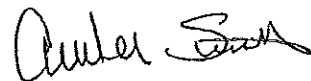
<sup>1</sup> Docket No. 15-WSEE-115-RTS, Order Approving Stipulation and Agreement, ¶117 (Sept. 24, 2015).

<sup>2</sup> *Id.*

3. Comments were received by several parties, and Staff reviewed these comments and re-evaluated its draft Report and Recommendation as appropriate. Staff's finalized Report and Recommendation outlining issues to research and investigate relevant to rate design for distributed generation customers is attached hereto, and hereby incorporated by reference. Specifically, Staff recommends the Commission open a generic docket to investigate rate design for distributed generation customers; to determine the appropriate rate structure for distributed generation customers by evaluating the costs and benefits of distributed generation; and to evaluate potential rate design alternatives for distributed generation customers.

WHEREFORE, for the reasons stated above, Staff respectfully requests the Commission issue an order opening a general investigation docket to investigate rate design for distributed generation customers as fully detailed in Staff's Report and Recommendation.

Respectfully submitted,



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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Jay Scott Emler, Chairman  
Shari Feist Albrecht, Commissioner  
Pat Apple, Commissioner

**FROM:** Tyler Page, Senior Research Economist  
Lana Ellis, Deputy Chief of Economics and Rates  
Bob Glass, Chief of Economics and Rates  
Jeff McClanahan, Director, Utilities Division

**DATE:** March 10, 2016

**SUBJECT:** Request to Open a Generic Docket Regarding Rate Design for Distributed Generation Customers

**EXECUTIVE SUMMARY:**

In its Application in Docket No. 15-WSEE-115-RTS (Docket 115), Westar made several proposals including new rates for distributed generation (DG) customers.<sup>1</sup>

The Stipulation and Agreement temporarily resolved all the controversial DG issues in Docket 115, in part, by proposing a generic docket be opened to research and evaluate how DG customers should be treated along with other specific issues related to DG. In the Order Approving Stipulation and Agreement, the Commission approved the proposal to defer those issues to a generic docket.

Staff requests a generic docket be opened to establish rate design policy for DG customers. As part of the generic docket, Staff also requests that the costs and benefits of DG be thoroughly examined.

**BACKGROUND:**

***Rate Case Filing***

On March 2, 2015, in Docket 115, Westar filed an application to modify its rates with the Commission. Among other requests, Westar proposed two new residential rate tariffs—the Residential Demand Plan and Residential Stability Plan. As part of the proposal, new residential customers with DG would be required to take electric service under one of the

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<sup>1</sup> From a generation point of view, the customers are best described as DG customers. However, from the utility services point of view, the customers are described as partial requirements customers.

two new residential rate tariffs.<sup>2</sup> In addition, Westar proposed several new renewable energy program offerings including a Community Solar Pilot and a solar block subscription proposal.

### ***Solar Party Interventions***

The DG and renewable energy proposals in Westar's Application prompted the intervention of multiple parties with varying interests in DG and renewable energy. The Alliance for Solar Choice's (TASC) Petition to Intervene cited a concern that Westar was using its monopoly status to create unfair competition for TASC members. In addition, TASC expressed concern that Westar's new proposed DG tariffs unfairly harmed the economics of installing a residential solar system.<sup>3</sup> Cromwell Environmental Inc. (CEI), Brightergy, LLC. (Brightergy), and Climate and Energy Project (CEP) each petitioned to intervene, arguing that the proposed rate changes could potentially impair investment in energy efficiency and solar DG. The Environmental Defense Fund's (EDF) Petition to Intervene also expressed concerns with Westar's residential tariff proposals.

### ***Initial Determination on Petitions to Intervene***

The Commission initially denied TASC's and CEI's Petitions to Intervene, concluding that TASC and CEI had failed to demonstrate how their legal rights, duties, privileges, immunities, or other legal interests may be substantially impacted by the proceeding and, therefore, they failed to meet the necessary requirements to intervene in the proceeding.<sup>4</sup>

Brightergy was granted intervention, but the Commission limited Brightergy's intervention because the impact of Docket 115 on Brightergy was determined to be indirect.<sup>5</sup>

### ***Reconsideration and Resolution***

Following the Commission's initial rulings on the Petitions to Intervene, TASC, CEI, and Brightergy filed Petitions for Reconsideration and various other pleadings seeking full intervention status. The pleadings argued the Commission overlooked their basis for intervention, the Commission's rulings were arbitrary and capricious, and denying or limiting intervention was a violation of their due process rights. In addition, TASC reiterated its concern that Westar's Pilot Community Solar proposal used Westar's monopoly status to create unfair competition. TASC also suggested the Commission conduct a separate proceeding on issues related to residential rate design and DG.<sup>6</sup>

On July 23, 2015, the Commission issued its Order on Interventions, Petition for Leave to Issue Discovery, Motion to Accept Pre-filed Direct Testimony Out of Time and Modifying Procedural Schedule.<sup>7</sup> In that Order, the Commission granted limited intervention status to TASC, CEI, Brightergy, CEP, and EDF (collectively referred to as

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<sup>2</sup> Direct Testimony of Ahmad Faruqui, p. 4, Docket No. 15-WSEE-115-RTS, (March 2, 2015).

<sup>3</sup> Petition to Intervene of The Alliance for Solar Choice, pp. 3-4.

<sup>4</sup> Requirements of K.A.R. 82-1-225 and K.S.A. 77-521. These are the standards the Commission relies on for governing intervention and conduct of proceedings.

<sup>5</sup> Order Granting Limited Intervention to Brightergy, LLC, ¶ 8.

<sup>6</sup> TASC's proposal was supported by multiple parties including Staff and CEI.

<sup>7</sup> Order on Interventions, Petition for Leave to Issue Discovery, Motion to Accept Pre-Filed Direct Testimony Out of Time and Modifying Procedural Schedule (July 23, 2015).

the “Solar Parties”). The Commission determined the arguments presented in TASC’s Petition for Reconsideration possessed merit and granted limited intervention to TASC in the Docket. The Commission concluded that because of the Solar Parties’ expertise on DG and DG rate design issues, their input would be important to the proceeding and in the interest of justice.<sup>8</sup> As a result, the Commission issued an Order modifying the Procedural Schedule by detaching residential rate design and solar DG issues into a separate phase in Docket 115.

Thus, the Order divided the evidentiary hearing in Docket 115 into two phases with Phase II limited to the following issues:

- a. Westar’s two new proposed residential tariffs—the Residential Demand Plan and Residential Stability Plan;
- b. Westar’s Pilot Community Solar proposal; and
- c. Westar’s Solar Block Subscription Proposal.<sup>9</sup>

All the issues not specifically reserved for Phase II made up Phase I of the hearing.

The Solar Parties’ participation in Docket 115 was limited (except for CEP) to participating in only Phase II of the evidentiary hearing.<sup>10</sup> CEP was not permitted to take part in the evidentiary hearing.

### *Settlement*

On August 6, 2015, the parties who had been granted full intervention status and were able to participate in both phases of the evidentiary hearing filed a Unanimous Stipulation and Agreement (S&A) resolving all issues in Docket 115. Westar agreed to withdraw its proposal for the Residential Demand Plan and Residential Stability Plan. Furthermore, Westar agreed to withdraw the Pilot Community Solar proposal. The settling parties also concluded that the Commission should open a generic docket to address how rates for DG customers should be structured.

After the S&A filing, Westar asked the Solar Parties what their concerns with the S&A were.<sup>11</sup> The Solar Parties indicated if certain changes were made to paragraph 39 of the S&A, the Solar Parties would agree not to oppose the S&A.<sup>12,13</sup> The revised version of paragraph 39, with changes underlined, states:

The Parties agree that the issue of whether a separate Residential Standard Distribution Tariff is necessary, and, if so, how to structure the Residential Standard Distributed Generation Tariff in order to properly recover just and reasonable costs from customers with distributed generation should be

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<sup>8</sup> *Id.* at ¶¶24, 49, 62, 66, 68.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at ¶83.

<sup>11</sup> Addendum to Stipulation and Agreement, ¶ 4.

<sup>12</sup> *Id.*

<sup>13</sup> Paragraph 39 of the S&A states: “The parties agree that the issue of how to structure the Residential Standard Distributed Generation Tariff in order to properly recover costs from customers with distributed generation should be deferred to a generic docket. Westar and Staff will work together to develop a procedural schedule for that generic docket in order to ensure timely resolution of the issues to be addressed.”

deferred to a generic docket. Westar and Staff will work together to develop a procedural schedule for that generic docket in order to ensure timely resolution of the issues to be addressed. The parties agree that they will not oppose or seek to limit the participation of The Alliance for Solar Choice, Cromwell Environmental, Inc., The Climate & Energy Project, or the Environmental Defense Fund in the generic proceeding.<sup>14</sup>

### *Final Order*

In its Order Approving Stipulation and Agreement, the Commission approved the proposal in the S&A to open a generic docket to research and evaluate specific issues related to DG. The Order states:

The Commission concurs that a generic docket is the appropriate method of identifying and discussing issues related to distributed generation before a public utility implements distributed generation-specific rates in the public utility's service area. The Commission hereby directs Staff to file a Report and Recommendation outlining specific issues to discuss, research and evaluate in a manner consistent with the terms of the S&A as amended. The Commission directs Staff to coordinate with the parties to this proceeding and other Kansas-jurisdictional public utilities on the initial outlaying of issues. The Commission understands that such an evaluation will take considerable time, and therefore directs Staff begin such an undertaking with all due haste.<sup>15</sup>

Pursuant to the Commission's Order in the 115 Docket, Staff requests a generic docket be opened to study rate design for DG customers. Staff's overarching goal for the generic docket is to determine whether a separate Residential Standard Distribution Tariff is necessary, and, if so, how to structure the Residential Standard Distributed Generation Tariff in order to properly recover just and reasonable costs from DG customers.<sup>16</sup>

### **ANALYSIS:**

#### *Scope of the Generic Docket*

In a broad sense, all customers create variable costs such as O&M and fuel costs, as well as a variety of fixed costs including fixed costs directly attributable to new customers; the generation capacity costs necessary to fulfil customer demand; general network transmission costs; and distribution system costs. These fixed costs are larger than the variable costs collected in the energy charge, especially when an electric utility has a rider mechanism to recover fuel costs.

The current residential rate design embeds demand cost recovery in the energy (kWh) charge. Therefore, when DG is substituted for the utility's generation, the utility's variable costs, and the demand costs embedded in the energy charge, at least in part, are

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<sup>14</sup> Addendum to Stipulation and Agreement, Attachment.

<sup>15</sup> Order Approving Stipulation and Agreement, ¶117.

<sup>16</sup> Prior to the filing of this Report and Recommendation a draft was circulated to the parties and other Kansas-jurisdictional utilities, giving them the opportunity to provide comments and suggestions. Some of those suggestions have been included in this Report and Recommendation.

not paid. For Staff, the current residential rate design poses two fundamental questions with respect to DG:

1. What are the costs (fixed and variable) and the benefits of providing utility service to DG customers?
2. What is the best way to structure the residential rate design to recover the costs created by DG?

### ***Costs of Distributed Generation***

The costs of DG are more tangible than the benefits. DG creates costs in two fundamental ways: (1) the use of the utility system as a backup to DG; and (2) the additional unpredictability that the DG adds to the utility system. Explained more fully:

(1) When the DG source is down for either planned or unplanned maintenance, the customer needs the utility's generation, transmission, and distribution system for energy. Thus, whether the utility system is used as backup a few days a month or nearly daily, the utility must have that capacity to serve DG customers as needed.<sup>17</sup> When the capacity is not needed, the utility still exists and so do its costs. The utility's physical capacity is largely fixed and cannot disappear just because it is not temporarily needed. In addition, even if the utility's physical capacity is not needed at a particular point in time, it still serves as insurance in case something unforeseen happens.

(2) Because nearly all residential DG is renewable generation, the energy produced is intermittent which adds to the existing demand volatility on the system. Because of its volatility, intermittent generation requires more dispatchable regulation and spinning reserve backup, and that increases cost. Also, because of the decentralized location of DG and because it is not controlled by the utility, the utility's requirement to estimate usage a day ahead for the Southwest Power Pool's (SPP) Integrated Marketplace becomes inherently more precarious.

Thus, the utility's lack of knowledge and control of DG and the intermittent nature of renewable resources, which are the sources for nearly all DG, creates unexpected demand fluctuations for the utility system. These fluctuations must be balanced by dispatchable generation which raises costs for the utility. In addition, these fluctuations make predicting system load in the Integrated Market Place's day-ahead market more difficult and increase the probability of penalties.

### ***Benefits of Distributed Generation***<sup>18</sup>

DG advocates and solar advocates, in particular, have identified a number of benefits that DG potentially creates:

- *Avoided energy costs*
- *Avoided generation capacity costs*
- *Avoided ancillary services and capacity reserve costs*

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<sup>17</sup> The utility has a legal obligation as provider of last resort.

<sup>18</sup> The purpose of this Report and Recommendation is to outline specific issues related to DG, and therefore, Staff believes including benefits in this Report and Recommendation as an issue to be discussed is appropriate.

- *Avoided transmission costs*
- *Avoided distribution costs*
- *Avoided environmental costs*
- *Avoided renewables costs*
- *Price mitigation benefits*
- *Economic development*
- *Health benefits*
- *Grid security*<sup>19</sup>

Staff has previously investigated several of these benefits in the context of evaluating the costs and benefits of energy efficiency programs. Specifically, Staff has investigated the avoided generation capacity costs and reduced transmission costs. With the SPP Integrated Marketplace, Staff is not certain how to appropriately measure avoided generation capacity. Other identified benefits such as grid security exist, but Staff is uncertain whether that benefit can be measured. Finally, Staff notes that the Commission has historically opposed the use of the Societal Benefit Cost Test and has preferred not to use adders to account for environmental benefits. Instead, the Commission has elected to wait until the costs of environmental improvements have been established through compliance with Environmental Protection Agency (EPA) rules and regulations. At that point, the environmental benefits have been internalized and no adder is needed to take these benefits into account. However, Staff believes that all of the above benefits and potentially additional benefits need to be further examined in the generic docket.

### ***Residential Rate Design***

One of the inherent issues created by DG is the idiosyncratic nature of the costs it creates. Unlike with smart meters where all customer costs are similar, DG is dependent upon individual choices such as the size of the system and preventive maintenance used by the customer. These idiosyncratic costs suggest that residential rate design will somehow need to be individualized for each customer to reflect each customer's burden on the utility system.

### ***Adding a Residential Demand Charge***

In the Westar rate case, Staff rejected simply increasing the customer charge significantly to help defray the costs created by DG. Instead, Staff indicated a preference for adding a demand charge to the DG customers' rates. The proposed demand charge would individualize the rate design and theoretically differentiate the demand costs of different customers. However, practical application of this rate design methodology raises additional questions.

Should coincidental demand or non-coincidental demand be used? How should the demand rate be calculated? And should all residential customers have a three part rate

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<sup>19</sup> R. Thomas Beach and Patrick G. McGuire. *The Benefits and Costs of Solar Distributed Generation for Arizona Public Service*. Crossborder Energy, May 8, 2013. R. Thomas Beach and Patrick G. McGuire. *Benefits and Costs of Solar Distributed Generation for the Public Service Company of Colorado*, December 2, 2013.



design: customer charge, demand charge, and energy charge? These are questions Staff is interested in examining in the generic docket.

### ***Other Rate Design Possibilities***

In addition to the rate design alternative discussed above, there are other rate designs that should be examined as part of the generic docket, such as different types of standby rates. Staff is not striving to identify an exhaustive list of possibilities with this Scope of the Generic Docket. Instead, Staff wants to indicate openness to other potential rate designs. Thus, Staff envisions the generic docket as both an educative experience and rigorous analytical task for participants.

### ***Procedural Considerations***

*Discovery:* The possibility exists for voluminous discovery to bog down this generic docket. While it is important to have available robust data for analysis, the primary thrust of this generic docket is to develop a policy for DG rate design. Therefore, discovery should be limited to reasonable requests within the scope of the generic docket which further the docket's policy objective. As such, Staff recommends strict adherence to the rules relevant to discovery as contained within K.A.R. 82-1-234a, along with prohibitions on cross-examination through the use of data requests and data requests designed to burden or harass other parties.

*Participation:* Issues and solutions vary from region to region and jurisdiction to jurisdiction. Here the goal is to address, evaluate, and solve issues specific to Kansas. Therefore, participation in this generic docket should be limited to participants with a direct Kansas nexus.

*Presentation:* Staff believes a Public Hearing in this matter is not necessary but that written comments from the public should be accepted within a defined public comment period. Further, because the primary thrust of this generic docket is gathering information to provide the Commission with a robust basis for developing a policy and consistent approach to DG customers going forward, Staff believes that each participant should have the opportunity to present their information and positions to the Commission uninterrupted by other parties. This contemplates individual/party-specific presentations, with affidavits verifying the documents presented, sworn and under oath, subject to Commission questions or discussion, and to be recorded by a court report. In addition, Staff suggests that participants specifically discuss the costs and benefits of DG and the appropriate rate design for DG customers. Since these two basic issues are tied together, Staff would like specific methods for estimating benefits and costs, and specifically how these benefits and costs should link with rate design.

*Panel Hearing:* Following presentations by all parties, Staff recommends the Commission hold a panel hearing where party witnesses would be sworn and under oath and subject to cross examination and Commission questions based on parties' filed comments and presentations.

*Outcome:* An Order changing the rates of any single utility is not an appropriate outcome in a generic docket developing policy. Any changes as a result of the policy outcome of this generic docket should be made by application in separate, utility-specific docket filings. However, the policy guidance from this generic docket should be binding upon

parties and nonparties alike, and Staff recommends the Commission designate its Order at the conclusion of this Docket as precedential pursuant to K.S.A. 77-415(b)(2) and disseminate the Order to the public accordingly.

***Proposed Procedural Schedule:*** Staff proposes the following schedule to guide this Docket and anchored to the date the Commission issues its Order Opening Docket:

- Commission Order Opening Docket
- Deadline for participation/intervention within 30 days of Commission Order
- Initial comments in response to Staff's Report and Recommendation within 60 days of Commission Order
- Presentations/Discussions before Commission sworn and under oath with affidavits supporting any documents provided to be scheduled during Commission Work Study Sessions
- Reply Comments within 30 days of last presentation
- Panel Hearing 30 days following Reply Comments deadline
- Initial Briefs within 45 days of panel hearing
- Reply Brief within 45 days of initial briefs

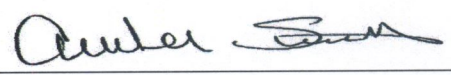
**RECOMMENDATION:**

Pursuant to the Commission's Order in the 115 Docket, Staff recommends a generic docket be opened to investigate rate design for DG customers. The goal of this generic docket is to determine the appropriate rate structure for DG customers by evaluating the costs and benefits of DG, as well as by examining potential rate design alternatives for DG customers. As discussed above, Staff does not believe an Order changing current rates should be the outcome of this proceeding. This generic docket is designed to develop policy for DG rate design. Staff recommends any specific tariff changes as a result of the policy outcome of this generic docket be made by application in separate, utility-specific docket filings. However, Staff recommends the Commission's findings in this Docket be binding and recognizes that in order to accomplish that, this Docket must proceed under the provisions of the Kansas Administrative Procedures Act, and Staff therefore recommends the Commission commence this Docket accordingly.

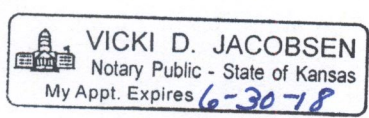
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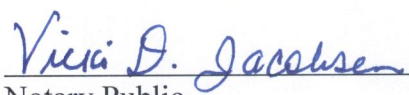
STATE OF KANSAS                    )  
  ) ss.  
COUNTY OF SHAWNEE            )

Amber Smith, of lawful age, being duly sworn upon her oath deposes and states that she is Chief Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion to Open Docket*, and attests that the statements therein are true to the best of her knowledge, information and belief.

  
\_\_\_\_\_  
Amber Smith, S. Ct. #23911  
Chief Litigation Counsel  
The State Corporation Commission  
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 11<sup>th</sup> day of March, 2016.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires: 6-30-18

## CERTIFICATE OF SERVICE

16-GIME-403-GIE

I, the undersigned, certify that a true and correct copy of the above and foregoing docket was served via electronic mail this 11th day of March, 2016, to the following:

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16-GIME-403-GIE

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