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

REPLY BRIEF OF SOUTHERN PIONEER ELECTRIC COMPANY

COMES NOW Southern Pioneer Electric Company ("Southern Pioneer" or the "Company"), by and through counsel, and files its Reply Brief pursuant to the Amended Procedural Schedule entered by the State Corporation Commission of the State of Kansas ("Commission") on May 30, 2024.

PROCEDURAL BACKGROUND

1. On November 30, 2023, pursuant to K.S.A. 66-117, Southern Pioneer filed an application requesting Commission approval of certain revenue-neutral changes to its rate design. The requested changes are revenue neutral at both the Company and class levels.[1] Southern Pioneer is seeking approval of these changes to better align costs with rates, address inter- and intra-class subsidies imbedded in the existing rate structure, modernize rates and tariffs to serve the evolving needs and demands of customers in a rapidly changing industry, and to clarify certain tariff language to ease future administrative burdens.[2]

[1] Macke Direct, pp. 24-25.

[2] *See* Application at ¶¶ 6 and 8; Scott Direct Testimony at p. 8.

2. The rate design changes requested in Southern Pioneer's application include a three-part rate structure applicable to customers currently classified as Residential and General Service Small customers.[3] If approved, the Company's redesigned rate structure will be comprised of (1) a volumetric energy charge; (2) a new per kW non-coincident peak (NCP) demand charge, with a corresponding decrease in the per kWh delivery charge; and (3) an increased customer charge, with a corresponding decrease in the per kWh delivery charge.

3. Southern Pioneer, Staff of the State Corporation Commission of the State of Kansas ("Staff"), the Citizens' Utility Ratepayer Board ("CURB"), Air Products and Chemicals, Inc. ("Air Products"), and National Beef Packaging Company, LLC ("National Beef") all participated as Parties in this proceeding.

4. On May 9, 2024, all Parties attended a settlement conference, which yielded a unanimous settlement resolving nearly all of the requests in Southern Pioneer's application. The Parties incorporated the settlement terms in a Unanimous Partial Settlement Agreement ("Settlement Agreement") and moved for approval of the Settlement Agreement in a joint motion filed with the Commission on May 16, 2024. The Settlement Agreement resolves all but two issues presented in this docket. The unresolved issues involve the demand charge and customer charge components of the proposed three-part rate.

[3] As part of its application, Southern Pioneer is proposing to change the method of classifying Residential and General Service Small customers based on Single-Phase and Three-Phase service. This method of classification eliminates the problems caused by subjective locational classification and uses objective criteria based on physical service characteristics. *See* Glass Direct Testimony, p. 6.

5. The evidentiary hearing in this docket was held on June 4, 2024, with the Commission presiding over the proceeding. The Commission admitted the prefiled written testimony and heard oral testimony from all witnesses called by the Parties.

PARTY POSITIONS AND POINTS IN DISPUTE

6. Staff roundly supports Southern Pioneer's three-part rate proposal and requests Commission approval of the proposal without modification. CURB opposes the proposal and contends the traditional two-part rate for residential customers should remain in place with no increase in the current customer charge.

Demand Charge

7. CURB's opposition to the demand charge component of Southern Pioneer's three-part rate proposal is based primarily on witness Glenn Watkins' misinterpretation of the Renewable Energy Standards Act (RESA), codified at K.S.A. 66-1256, 66-1257, and 66-1259. The statutory provision cited in CURB's brief, KS.A. 66-1256(b) states:

> The legislature declares that it is in the public interest to promote renewable energy development in order to best utilize the abundant natural resources found in this state. There is hereby established a renewable energy standard for the state. The renewable energy standard shall be a voluntary goal that 20% of a utility's peak demand within the state be generated from renewable energy resources by the year 2020.

8. The RESA has no bearing on Southern Pioneer's three-part rate proposal. The RESA does not address customer-sited generation, and it promotes renewable energy development by setting a voluntary goal for renewable energy sales by nonmunicipal public utilities. Moreover, nothing in the RESA preempts or restricts the Commission's authority to approve uniform, nondiscriminatory rate designs aimed at aligning rates with cost causation to avoid

cross-subsidies. Kansas courts have long recognized that the "touchstone of public utility law is the rule that customers shall not be burdened with costs created by other customers."[4] In utility regulation, the cost-causers should be the cost-payers.[5] Aligning rates with cost causation and avoiding cross-subsidies is a legitimate ratemaking objective and an important aspect of rate modernization.[6]

9. At hearing, Staff witness Dr. Robert Glass voiced his disagreement with Mr. Watkins' interpretation of the RESA, noting that the legislation was intended to promote the best use of natural resources in Kansas.[7] Dr. Glass went on to explain that (in his personal opinion), solar done by a utility with the latest technology is far more efficient than rooftop solar.[8]

10. The record evidence confirms Southern Pioneer's longstanding commitment to promoting Kansas renewable energy development in a manner consistent with the RESA. For example, the Company is currently seeking approval of a Renewable Energy Program Rider ("RE Rider") for its residential and commercial and industrial customers. The RE Rider was developed by Southern Pioneer's power supplier, Sunflower Electric Power Corporation ("Sunflower"), which is owned by Southern Pioneer, Pioneer Electric, and five other distribution cooperatives. Sunflower currently transmits wholesale solar and wind energy to Southern Pioneer from multiple renewable energy resources and is developing plans to own and operate, or deploy under contract, two additional solar resources totaling

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4 *Jones v. Kansas Gas and Electric Co.*, 222 Kan. 390, Syl. ¶ 10 (1977).
5 Glass Direct Testimony, p. 7.
6 Scott Rebuttal, p. 3.
7 Hearing Tr., p. 105.
8 Hearing Tr., pp. 106-07,

170 MW. If approved, the RE Rider will offer Southern Pioneer's customers a menu of options to support and promote renewable energy development in Kansas.[9] A key aspect of the RE Rider is a residential community solar program.

11. Also, for longer than a decade Southern Pioneer has voluntarily offered to its residential and small commercial customers with behind-the-meter generation the opportunity to participate in a net metering program, pursuant to its Commission-approved Net Metering Rider.[10]

12. As a nonprofit utility, Southern Pioneer is agnostic to distributed generation (DG) adoption, and the three-part rate design the Company is proposing in this docket is agnostic to DG adoption as well.[11] In any event, there is no credible evidence in the record suggesting that a modest $3.00 per kW demand rate would discourage DG adoption, particularly with all the incoming federal subsidies to incentivize DG technology.[12]

13. CURB also asserts that the proposed three-part rate design is not understandable or acceptable to customers. That assertion lacks record support as well. The only empirical evidence of the understandability and acceptability of the proposed rate structure was provided by Southern Pioneer witness Chantry Scott. Mr. Scott submitted that the best evidence of local customer acceptability is that customers have had little trouble accepting a similar three-part rate design implemented in Pioneer Electric's service territory over a

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[9] *See* Scott Rebuttal, pp. 3-4.

[10] *Id.* at p. 4.

[11] Id. at p. 3.

[12] *See* Hearing Tr., pp. 105-06.

year ago. Pioneer has received no customer complaints from its members in its implementation.[13] Mr. Scott testified that Pioneer customers have had little trouble transitioning to a three-part rate design and expects to see a similar rate transition for customers in Southern Pioneer's service territory.[14]

14. Also, notwithstanding CURB's assertions to the contrary, Southern Pioneer's chosen metric for calculating the proposed demand charge, NCP, is the appropriate metric for determining distribution capacity requirements per customer.[15] Individual customer costs placed on the distribution system are not driven by the system peak.[16] An NCP demand charge is designed to ensure each customer covers a fair share of the cost of existing and new distribution capacity based on the customer's use of that capacity.[17] Also, NCP demand charges are the most appropriate demand charges for aligning distribution system capacity-related cost of service for substations, primary line, and service transformers.[18]

15. Southern Pioneer's proposed NCP demand charge is appropriately tailored to capture the demands placed on the distribution system by individual customers.[19] The charge will help the Company collect distribution capacity costs while also reducing cross-subsidies.[20]

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[13] Scott Direct, p. 17.
[14] Scott Rebuttal, p. 7.
[15] Glass Direct, p. 20.
[16] *Id.*
[17] Glass Direct, p. 15, 20.
[18] Macke Direct, pp. 32-33.
[19] *Id.* at p. 26.
[20] Glass Direct, p. 26.

16. The Board of Directors of Southern Pioneer was presented with options other than the proposed NCP demand charge, including a charge based on incremental demand.[21] There are many ways to design a demand charge, and design choices aimed at moving toward more cost-reflective rates depend on the nature of the distribution costs being recovered through the charge. At a high level, demand charges that collect costs further downstream – that is, closer to the customer – are generally based on metrics more closely aligned with the maximum demands of individual customers. By contrast, demand charges based on system peak are typically reserved for developing generation or related peak period prices, such as interruptible or curtailable loads.[22]

17. Southern Pioneer has not yet explored Time-of-Use (TOU) rates because such rates are typically used in connection with generation, transmission and the cost of power supply.[23] Also, as a distribution utility, Southern Pioneer has visibility into local peaks but not into Sunflower's G&T peaks. All testifying witnesses in this proceeding agreed that TOU pricing is more appropriate for the generation-transmission side than the distribution side.[24]

18. Still, as Mr. Scott testified, Southern Pioneer is open to other options if it feels its rate design is not adequate to send the right price signals.[25] However, the primary objective of the rate design proposal in this docket is to more fairly and stably collect grid costs that are benefitting everyone. Distribution facilities must be ready to serve customers regardless

[21] Hearing Tr. 67.
[22] Hearing Tr. 65.
[23] Hearing Tr. 54.
[24] Hearing Tr., pp. 67, 72, 97.
[25] Hearing Tr. 55.

of their time of use.[26] That said, the proposed demand charge is still aimed at managing load and does provide a load management incentive.[27]

19. TOU rates are not a direct solution to fixing inequities in the assignment of fixed distribution costs for cost causation purpose.[28] However, a TOU rate could always be added in the future to address additional generated costs or avoided generated costs related to DG or Electric Vehicle (EV) charging. The NCP demand charge proposed in this docket would not foreclose that option.[29]

20. The Company's cost of service study shows that the demand charge could be at least twice what the Company is proposing. However, in the interest of gradualism, the Company settled on the $3.00 per KW amount.

Customer Charge

21. Southern Pioneer stands by its proposed $2.00 increase to its customer charge. The Company's current customer charge, $14.67, is not cost reflective and results in cross-subsidies based on energy use. To fully recover the customer-related costs of providing service, the customer charge should be set at $21.04.[30]

22. Further, CURB offered nothing of evidentiary value to support its claim that the customer charge should remain unchanged. And, from a methodology perspective, Mr. Watkins' analysis was materially deficient. He did not prepare a marginal cost of service

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[26] Hearing Tr., p. 65.

[27] Hearing Tr. 69.

[28] Hearing Tr., p. 72.

[29] Hearing Tr. 65.

[30] Macke Direct, p. 30.

study upon which to establish the Company's rate design. Instead, he reclassified embedded costs from the Company's CCOSS in an attempt to justify his preference for holding down the customer charge. Mr. Watkins' re-classification of costs cannot be reconciled with the Company's CCOSS, Staff's CCOSS, common industry practice, or even the NARUC Cost Allocation Manual. Additionally, Mr. Watkins' incremental cost analysis was incomplete, and if applied consistently, would likely leave Southern Pioneer's rate design below the Commission's previously approved revenue requirement.[31]

IOU Comparison

23. Like Staff, Southern Pioneer finds no merit in CURB's suggestion that the Company's rate design proposal should be rejected merely because no other regulated electric utility has implemented a mandatory three-part rate for residential customers. Comparing Southern Pioneer to for-profit, vertically integrated IOUs is both unfair and misleading. There is no probative value in such a comparison.

24. Unlike IOUs, Southern Pioneer is a wholly owned subsidiary of a nonprofit electric cooperative that is exempt from KCC jurisdiction, regulation, supervision and control under K.S.A. 66-104d.[32] Southern Pioneer operates much like a cooperative, providing electric service on a not-for-profit basis without profit motive.[33] Southern Pioneer is governed by a nine-member Board of Directors that regularly receives input from a nine-member consumer

[31] Macke Rebuttal, p. 9.

[32] Scott Direct Testimony, p. 6; Scott Rebuttal, p. 8.

[33] Hearing Tr., p. 45.

advisory council comprised entirely of Southern Pioneer ratepayers.[34] Southern Pioneer's rates are established through a Commission-approved formula based ratemaking plan that utilizes predetermined rate parameters and protocols to help reduce revenue requirements and manage customer rate impacts.[35]

25. Southern Pioneer is locally managed, and the people the Company deals with on a daily basis are neighbors, family members, and friends. As such, Southern Pioneer is closely engaged with its customers and are more receptive to their needs.[36]

26. Southern Pioneer is a rural distribution-only utility. Other than the City of Liberal, the Company's service area is made up of rural areas and small towns.[37] Southern Pioneer has very little in common with a vertically integrated IOU – it has different system characteristics, different demographics, different economies of scale, and a different operating philosophy. As Mr. Watkins' observed, "Every utility is different."[38]

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[34] Scott Rebuttal Testimony, p. 8.

[35] Scott Direct Testimony, p. 6.

[36] Hearing Tr., p. 56.

[37] Hearing Tr., p. 47.

[38] Hearing Tr., p. 96.

CONCLUSION

Southern Pioneer's three-part rate proposal is just, reasonable, and in keeping with Kansas law, and supported by substantial competent evidence in light of the record as a whole. Accordingly, Southern Pioneer respectfully requests the Commission approve the Company's three-part rate design along with the Parties' unanimous settlement.

Respectfully submitted,

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I, the undersigned, do hereby certify that a true copy of the Attached Reply Brief of Southern Pioneer Electric Company has been served to the following by means of electronic service on this 2nd day of July, 2024:

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