

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

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

FINAL ORDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

I. Background

1. On July 12, 2016, the Commission issued an Order Opening General Investigation to examine various issues surrounding rate structure for distributed generation (DG) customers.¹ The Commission stated its intent to have a thorough and thoughtful discussion of the appropriate rate structure for DG including the quantifiable costs and quantifiable benefits of DG.² The Commission named all Kansas electric public utilities, subject to the Commission's jurisdiction over retail rates,³ as parties to the docket and also granted parties an opportunity to provide evidence showing that costs and benefits can be quantified and allocated in a manner which will result in just and reasonable rates for DG customers.⁴

¹ Order Opening General Investigation, p. 5 (July 12, 2016).

² *Id.*

³ Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, Westar), Kansas City Power & Light Company (KCP&L), Southern Pioneer Electric Company (Southern Pioneer), Midwest Energy, Inc. (Midwest Energy), Empire District Electric Company (Empire).

⁴ Order Opening General Investigation, p. 5.

2. On July 14, 2017, the Commission issued orders granting intervention to Cromwell Environmental, Inc. (Cromwell), the Citizens Utility Ratepayer Board (CURB), The Alliance for Solar Choice, Sunflower Electric Power Corporation (Sunflower) and Mid-Kansas Electric Company (Mid-Kansas), and Brightergy, LLC (Brightergy).

3. On September 1, 2016, the Commission issued orders granting intervention to the Kansas Electric Cooperatives, Inc. (KEC), the Climate and Energy Project (CEP), and IBEW Local Union No. 304 (IBEW).

4. On September 29, 2016, the Commission issued an order granting intervention to United Wind, Inc. (United Wind).

5. On February 16, 2017, the Commission issued an Order Setting Procedural Schedule. The order set a schedule for the parties to file comments, engage in roundtable discussions, and participate in an evidentiary hearing.⁵

6. On March 17, 2017, Midwest Energy,⁶ Southern Pioneer,⁷ which was joined by KEC, Westar,⁸ Brightergy,⁹ CEP,¹⁰ KCP&L,¹¹ United Wind,¹² Cromwell,¹³ Sunflower and Mid-

⁵ Order Setting Procedural Schedule, p. 3 (Feb. 16, 2017).

⁶ Initial Comments of Midwest Energy, Inc., (March 17, 2017) (Initial Comments Midwest Energy).

⁷ Initial Comments of Southern Pioneer Electric Company Joined by the Kansas Electric Cooperatives, Inc., (March 17, 2017) (Initial Comments Southern Pioneer and KEC).

⁸ Initial Comments of Westar Energy, Inc. and Kansas Gas and Electric Company Regarding Cost-Based Rates for Customers with Distributed Generation, (March 17, 2017) (Initial Comments Westar).

⁹ Brightergy elected not to provide a sponsoring witness for its comments and later withdrew its comments from the evidentiary record. Brightergy requested its comments be included with the public comments.

¹⁰ Testimony of Dorothy Barnett on Behalf of the Climate + Energy Project, (March 17, 2017) (Initial Comments CEP).

¹¹ Initial Comments of Kansas City Power & Light Company, (March 17, 2017) (Initial Comments KCP&L).

¹² United Wind elected not to provide a sponsoring witness for its comments and later withdrew its comments from the evidentiary record. United Wind requested its comments be included with the public comments.

¹³ Initial Comments of Cromwell Environmental, (March 17, 2017) (Initial Comments Cromwell).

Kansas,¹⁴ CURB,¹⁵ Empire,¹⁶ and Commission Utilities Staff¹⁷ (Staff) filed their initial Comments.

7. On May 5, 2017, Southern Pioneer,¹⁸ Westar,¹⁹ Midwest,²⁰ Staff,²¹ Sunflower and Mid-Kansas,²² KCP&L,²³ Empire,²⁴ Brightergy,²⁵ Cromwell,²⁶ IBEW 304,²⁷ and CEP²⁸ filed their reply comments.

8. On June 16, 2017, Staff, Westar, KCP&L, Sunflower, Mid-Kansas, Southern Pioneer, KEC, Midwest Energy, Empire, Brightergy, United Wind, and IBEW 304 (Joint Movants) filed a Motion to Approve Non-Unanimous Stipulation and Agreement (S&A).

9. Also on June 16, 2017, the Parties filed a List of Contested Issues.

10. On June 20, 2017, Westar,²⁹ KCP&L,³⁰ Southern Pioneer and KEC,³¹ and Staff³² filed testimony in support of the Non-Unanimous Stipulation and Agreement.

¹⁴ Initial Comments of Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC, (March 17, 2017) (Initial Comments of Sunflower and Mid-Kansas).

¹⁵ Notice of Filing of CURB'S Initial Comments, (March 17, 2017) (Initial Comments CURB).

¹⁶ Affidavit of William G. Eichman on Behalf of The Empire District Electric Company, (March 17, 2017) (Initial Comments Empire).

¹⁷ Notice of Filing Staff's Verified Initial Comments (March 17, 2017) (Initial Comments Staff).

¹⁸ Reply Comments of Southern Pioneer Electric Company, (May 5, 2017) (Reply Comments Southern Pioneer).

¹⁹ Reply Comments of Westar Energy, Inc. and Kansas Gas and Electric Company Regarding Cost-Based Rates for Customers with Distributed Generation, (May 5, 2017) (Reply Comments Westar).

²⁰ Reply Comments of Midwest Energy, Inc., (May 5, 2017) (Reply Comments Midwest).

²¹ Notice of Filing Staff's Verified Reply Comments, (May 5, 2017) (Reply Comments Staff).

²² Reply Comments of Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC, (May 5, 2017) (Reply Comments Sunflower and Mid-Kansas).

²³ Reply Comments of Kansas City Power & Light Company, (May 5, 2017) (Reply Comments KCP&L).

²⁴ Affidavit of William G. Eichman Supporting Reply Comments on Behalf of The Empire District Electric Company, (May 5, 2017) (Reply Comments Empire).

²⁵ Brightergy elected not to provide a sponsoring witness for its comments and later withdrew its comments from the evidentiary record. Brightergy requested its comments be included with the public comments.

²⁶ Reply Comments of Cromwell Environmental, (May 5, 2017) (Reply Comments Cromwell).

²⁷ IBEW 304 elected not to provide a sponsoring witness for its comments and later withdrew its comments from the evidentiary record. IBEW 304 requested its comments be included with the public comments.

²⁸ Reply Comments of Climate and Energy, (May 5, 2017) (Reply Comments CEP).

²⁹ Testimony of Jeff Martin in Support of Stipulation and Agreement – Westar Energy, Inc. (June 20, 2017) (Testimony in Support Martin); On June 26, 2017, Westar late filed the Rebuttal Testimony of Ahmad Faruqi in Support of Stipulation and Agreement (Testimony in Support Faruqi).

³⁰ Testimony in Support of the Settlement Agreement of Bradley D. Lutz on behalf of Kansas City Power & Light Company (June 20, 2017) (Testimony in Support Lutz).

11. On June 20, 2017, CURB,³³ Cromwell,³⁴ and CEP,³⁵ (collectively the Opposing Parties) filed testimony in opposition to the Non-Unanimous Stipulation and Agreement.

II. Legal Standard

12. Every public utility in Kansas is required to provide reasonably efficient and sufficient service and establish just and reasonable rates.³⁶ Just and reasonable rates are those that fall within a “zone of reasonableness,” which balances the interests of present and future ratepayers, and the public interest.³⁷ The Kansas Supreme Court has recognized that “the touchstone of public utility law is the rule that one class of consumers shall not be burdened with costs created by another class.”³⁸ The Commission may in addition to cost-causation, consider matters of public policy, such as gradualism to minimize rate shock, revenue stability for the company, economic development, and energy efficiency.³⁹ Both federal and state courts have been clear that rates must be based on costs and supported by substantial competent evidence.⁴⁰ Substantial competent evidence is that which possesses something of substance and relevant consequence, and which furnishes a substantial basis of fact from which the issues can

³¹ Testimony in Support of Stipulation and Agreement Prepared by Richard J. Macke (June 20, 2017) (Testimony in Support Macke).

³² Testimony in Support of the Non-Unanimous Stipulation and Agreement Prepared by Robert H. Glass (June 20, 2017) (Testimony in Support Glass).

³³ Testimony in Opposition to Non-Unanimous Stipulation and Agreement of Cary Catchpole on Behalf of CURB (Jun. 20, 2017) (Testimony in Opposition Catchpole); Testimony in Opposition to Non-Unanimous Stipulation and Agreement of Brian Kalcic on Behalf of CURB (Jun. 20, 2017) (Testimony in Opposition Kalcic).

³⁴ Testimony of Aron Cromwell in Opposition to Non-Unanimous Stipulation and Agreement (Jun. 20, 2017) (Testimony in Opposition Cromwell).

³⁵ Testimony of the Climate and Energy Project Addressing Non-Unanimous Settlement (Jun. 20, 2017) (Testimony in Opposition CEP).

³⁶ K.S.A. 66-101b.

³⁷ *Kansas Gas and Elec. Co. v. Kansas Corp. Comm’n.*, 239 Kan. 483, 488 (1986).

³⁸ *Jones v. Kansas Gas & Electric Co.*, 222 Kan. 390, 401 (1977).

³⁹ Docket No. 12-KCPE-764-RTS (Aug. 22, 2012); Docket No. 16-KCPE-446-TAR (Jun. 22, 2017); *See also, Midwest Gas Users Ass’n v. Kansas Corp. Comm’n.*, 3 Kan. App.2d 376, 380 (1979).

⁴⁰ *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *Kansas Gas and Electric Co.*, 239 Kan. At 501; *Zinke & Trumbo, Ltd. v. State Corp. Comm’n.*, 242 Kan. 470, 475 (1988).

reasonably be resolved.⁴¹ A decision of the Commission is unsupported by substantial competent evidence “only when the evidence shows the [Commission’s] determination ‘is so wide of the mark as to be outside the realm of fair debate.’”⁴² The Kansas Supreme Court has also stated that the Commission “is not obligated to render its finding of fact in minute detail ... [h]owever, we require its findings to be specific enough to allow judicial review of the reasonableness of the order.”⁴³

13. The law generally favors the compromise and settlement of disputes.⁴⁴ However, the Commission must make an independent finding that the settlement is supported by substantial competent evidence in the record as a whole, that the settlement will establish just and reasonable rates, and the settlement is in the public interest.⁴⁵

14. The Commission has established a five-part test to determine the reasonableness of proposed settlement agreements. The five parts are rooted in the Commission’s organic statutes,⁴⁶ the Kansas Administrative Procedure Act,⁴⁷ and the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions.⁴⁸ The five parts are:

- a. Whether there was an opportunity for the opposing party to be heard on their reasons for opposition to the stipulation and agreement;
- b. whether the stipulation and agreement is supported by substantial competent evidence;

⁴¹ *Farmland Indus., Inc. v. Kansas Corp. Comm’n.*, 25 Kan.App.2d 849, 852 (1999).

⁴² *Zinke & Trumbo, Ltd. v. Kansas Corp. Comm’n.*, 242 Kan. 470, 474 (1988) (quoting *Kansas-Nebraska Natural Gas Co. v. Kansas Corp. Comm’n.*, 217 Kan. 604, 617).

⁴³ *Id.* at 475.

⁴⁴ *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

⁴⁵ *Citizens’ Utility Ratepayer Board v. Kansas Corp. Comm’n.*, 28 Kan.App.2d 313, 316, (2000) *rev. denied* March 20, 2001.

⁴⁶ See K.S.A. 66-101b (providing the Commission with the power to “require all electric public utilities governed by this act to establish and maintain just and reasonable rates”).

⁴⁷ See, K.S.A. 77-501 *et seq.*

⁴⁸ See, K.S.A. 77-601 *et seq.*

- c. whether the stipulation and agreement conforms with applicable law;
- d. whether the stipulation and agreement results in just and reasonable rates;
- e. whether the results of the stipulation and agreement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement.⁴⁹

III. Findings and Conclusions

15. The Commission finds the intent and purpose of this general investigation has shifted slightly from when it was first opened. Staff initially stated the goal of this generic docket was 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.⁵⁰ Though Staff recommended the Commission not change current rates through this proceeding, Staff did recommend the Commission make its findings in this docket binding, with specific tariff changes to be made in utility-specific docket filings.⁵¹ However, the testimony in the evidentiary hearing suggested the parties were less interested in binding action by the Commission and more interested in guidance from the Commission regarding the appropriate direction of DG rate design.⁵² This position was later repeated during briefing.⁵³

⁴⁹ Order Approving Contested Settlement Agreement, Docket No. 08-ATMG-280-RTS, p. 5 (May 12, 2008).

⁵⁰ Staff's Report and Recommendation p. 8 (March 11, 2016).

⁵¹ *Id.* at pp. 7-8.

⁵² Tr. Vol. 1, p. 177 lns. 18-24; p. 178 lns. 16-19; pp. 126-127; pp. 178-179; pp. 180-82; p. 183 lns. 4-20; Tr. Vol. 2, p. 335.

⁵³ Reply Brief of Commission Staff, pp.6-7 (Aug. 25, 2017) (Nothing in the S&A limits or restricts a utility or the Commission to using a certain rate design. As discussed at hearing, Staff views the enumeration of rate design option in Paragraph 11 of the Stipulation and Agreement as merely that: options; not prescriptive requirements); Reply Brief of Citizens' Utility Ratepayer Board, p. 10 (Aug. 25, 2017); Post-Hearing Reply Brief of Kansas City Power & Light Company, p. 12 (Aug. 25, 2017).

16. With this request for guidance in mind, the Commission reviews the S&A utilizing the Commission's five-part question analysis of non-unanimous settlement agreements.

Whether there was an opportunity for the opposing party to be heard on their reasons for opposition to the stipulation and agreement?

17. The Commission finds the Opposing Parties each filed testimony in opposition to the S&A⁵⁴ and fully participated during the evidentiary hearing, including the cross-examination of the witnesses who testified in support of the S&A. The Commission finds therefore the Opposing Parties were granted an opportunity for their reasons for opposition to the S&A to be heard.

Whether the stipulation and agreement is supported by substantial competent evidence?

18. The Commission finds the S&A is specifically supported by the testimony of five witnesses through pre-filed supporting testimony,⁵⁵ live testimony at the evidentiary hearing, and the sworn pre-filed comments of the supporting parties.⁵⁶ Therefore, the Commission finds there to be sufficient evidence from which to make a decision.⁵⁷

19. The S&A requests the Commission adopt nine substantive findings, which will be addressed below.

⁵⁴ See *Generally*, Testimony in Opposition CEP; Testimony in Opposition Cromwell; Testimony in Opposition Kalcic; Testimony in Opposition Catchpole.

⁵⁵ See *Generally*, Testimony in Support Glass; Testimony in Support Martin; Testimony in Support Faruqui; Testimony in Support Lutz; Testimony in Support Macke.

⁵⁶ See, Reply Comments Westar; Reply Comments Empire; Reply Comments KCP&L; Reply Comments Sunflower and Mid-Kansas; Reply Comments Midwest Energy; Reply Comments KEC; Reply Comments Southern Pioneer; Reply Comments Staff; Initial Comments Staff.

⁵⁷ The omission from this Order of any argument or portion of the record raised by the participants in their briefs does not mean that it has not been considered. All such arguments have been evaluated and found to either lack merit or significance to the extent that their inclusion would only tend to lengthen this Order without altering its substance or effect.

20. First, the Commission finds DG customers should be uniquely identified within the ratemaking process because of their potentially significant different usage characteristics.⁵⁸ The Commission finds the unique identification of DG customers within a class or sub-class is the key to properly recognizing the cost and quantifiable benefits of DG.⁵⁹ 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 other justification exists to retain those customers in the existing rate class. A separate rate class for DG customers is not meant to punish those customers, rather such a class would serve to provide clarity for both utilities and customers.

21. Specific to Westar, the Commission finds Westar's Distributed Generation Residential Rate Schedule implemented in Westar's last rate case shall remain in place and effective for all residential customers installing distributed generation on or after October 28, 2015, and shall be treated as a separate class for purposes of future class cost of service studies and ratemaking generally.

22. Second, the Commission finds the current two-part residential rate design is problematic for utilities and residential private DG customers because DG customers use the

⁵⁸ Initial Comments Staff, p. 16, ¶ 41; Reply Comments of Commission Staff, pp. 5-6; Comments of Cary Catchpole for the Citizens' Utility Ratepayer Board on Distributed Generation Policy Matters, p. 7, ¶ 11, pp. 8-9, ¶ 12-13, (Mar. 17, 2017); Comments of Brian Kalcic for the Citizens' Utility Ratepayer Board on Distributed Generation Rate Design, p. 8, (Mar. 17, 2017); Reply Comments Kalcic, pp. 2-4; Initial Comments Westar Energy, pp. 3-8, (Mar. 17, 2017); Reply Comments Westar, pp. 3-6, Initial Comments Empire District Electric Company, pp. 2-3, Reply Comments Empire, p. 1, pp. 3-4; Initial Comments Sunflower and Mid-Kansas, pp. 2-3; Initial Comments Southern Pioneer and KEC, p. 5, p. 7, ¶ 17; Reply Comments Southern Pioneer, p. 8, ¶¶ 19-20, (May 5, 2017); Initial Comments Midwest Energy, pp. 3, 5-6, and 8; Reply Comments Midwest Energy, pp. 2-4; Initial Comments KCP&L, p. 24; Reply Comments of KCP&L, p. 8.

⁵⁹ Direct Testimony in Support Lutz, p. 5.

electric grid as a backup system resulting in their consuming less energy than non-DG customers, which results in DG customers not paying the same proportion of fixed costs as non-DG customers.⁶⁰ The Commission finds DG customers are thus being subsidized by non-DG customers.⁶¹

23. Third, the Commission finds the following rate design options are appropriate for residential private DG customers, to allow utilities to better recover the costs of providing service to that class or sub-class of customers:

- a. A cost of service based three-part rate consisting of a customer charge, demand charge, and energy charge;⁶²
- b. A grid charge based upon either the DG output or nameplate rating;⁶³ or
- c. A cost of service-based customer charge that is tiered based upon a customer's capacity requirements.⁶⁴

The Commission finds the above list is not meant to preclude a utility from proposing other appropriate rate designs within that individual utility's rate case proceeding, but rather recognizes that each utility might have different conditions and different needs.⁶⁵ Thus, the Commission finds the S&A allows flexibility for a variety of alternatives.⁶⁶

24. The Commission's finding that the above rate designs are appropriate does not serve as a predetermination that the above rate designs will result in just and reasonable rates.

⁶⁰ Initial Comments Staff, pp. 1-2; Initial Comments Westar Energy, pp. 7-13; Initial Comments Empire, p. 2; Initial Comments Southern Pioneer and KEC, pp. 5-7; Initial Comments Midwest Energy, ¶13; Initial Comments KCP&L, pp. 23-24; Initial Comments of Cary Catchpole for the CURB, ¶16; Initial Comments of Brian Kalcic for the CURB, ¶7.

⁶¹ Initial Comments Staff, pp. 1-4; Tr. Vol. 1, p. 112.

⁶² See Faruqui Initial Affidavit, at pp. 12-22, Brown Initial Affidavit, at pp. 41-42, Martin Initial Affidavit, at pp. 4-5, Faruqui Reply Affidavit, at pp. 1-2, Brown Reply Affidavit, at pp. 1-4, Martin Reply Affidavit, at pp. 5-6.

⁶³ Initial Comments of Southern Pioneer and KEC, p. 7; Initial Comments of Sunflower and Mid-Kansas, p. 4.

⁶⁴ Initial Comments CURB, p. 5; Initial Comments Empire, p. 3; Initial Comments Sunflower and Mid-Kansas, p. 4.

⁶⁵ Direct Testimony in Support Lutz, p. 7.

⁶⁶ Direct Testimony in Support Lutz, p. 7.

Rather, based upon the testimony on the record, the Commission interprets the S&A as requiring the sponsoring utility of a new DG rate design as having the burden to show that any proposed rate design will result in non-discriminatory, just and reasonable rates.⁶⁷

25. Fourth, the Commission finds a customer education program must be implemented whenever new residential private DG rate structures are ordered, and that program should be completed as soon as practical after the Commission approves a new rate design.⁶⁸

26. Fifth, the Commission finds rates for private residential DG customers should be cost-based and any unquantifiable value of resource approach should not be considered when setting rates. This is because cost-based rates are a fundamental attribute of good rate design as they allow the Commission to clearly identify quantifiable costs, which ensures rates for all customers are equitable while encouraging efficient use of resources and minimization of unnecessary cross-subsidization between customers.⁶⁹ This finding is consistent with the Commission's stated preference at the initiation of this investigation.⁷⁰ The Commission finds a class cost of service study provides sufficient support for design of a residential private DG tariff and no further study is necessary for the purpose of this docket because the class cost of service study takes into consideration benefits in the form of avoided costs.⁷¹ However, this finding does not preclude any party from sponsoring any study it believes necessary to provide an evidentiary basis for its position in a general rate case. As in this docket, any study submitted should include only quantifiable market-based costs and benefits to the utility.

⁶⁷ See, K.S.A. 66-101b; K.A.R. 82-1-231.

⁶⁸ Direct Testimony in Support Lutz, p. 8.

⁶⁹ Direct Testimony in Support Lutz, p. 8.

⁷⁰ Order Opening General Investigation, p. 5.

⁷¹ Initial Comments Staff, pp. 2-3

27. Sixth, the Commission finds that a value of resource study (i.e. cost-benefit analysis) is not required by the Commission at this time because, as testified by Staff, such studies have limited value because they return widely varying results and unnecessarily duplicate information already part of utility-specific class cost of service studies.⁷² However, as indicated above, nothing herein precludes any party from developing any study it believes to be helpful to the Commission in establishing just and reasonable rates.

28. Seventh, the Commission finds DG rate design policy is best determined in this docket in order to provide certainty to all parties for the benefit of the orderly development of the private DG market in Kansas.⁷³ Without a determination by this Commission as to what an appropriate DG rate structure is, future rate design proposals will be undermined by the question of whether that particular rate design proposal is appropriate.⁷⁴ However, the Commission finds electric utilities that do not currently have DG tariffs shall have the option to propose DG tariffs consistent with the principles established in this general investigation in subsequent general rate case filings for approval by the Commission.

29. Eight, the Commission finds any DG-specific rate design implemented subsequent to this proceeding to serve residential private DG customers would apply to those customers adding DG systems on or after the effective date of those tariffs. Customers with distributed DG systems implemented and operating prior to that date and served by other rate designs will be allowed to remain on those preexisting rates until January 1, 2030, to the extent permitted by Kansas law. On and after January 1, 2030, all distributed generation customers will be subject to the then current residential DG rate design. The Commission further finds this S&A

⁷² Initial Comments Staff, p. 8 (Mar. 17, 2017); Reply Comments Staff, p. 3; *See also*, Direct Testimony in Support Lutz, p. 8.

⁷³ Direct Testimony in Support Lutz, p. 9.

⁷⁴ *Id.*

term to be in the public interest because the term sets clear timeframes for implementation of any new DG structure while providing an important grandfathering period to provide a transition to the new rates, while protecting customers served under the old designs from unanticipated changes.⁷⁵ Likewise, the future closing date of January 1, 2030, is appropriate because it is the date set by statute when methods used to compensate excess generation under net meeting are unified under a single method.⁷⁶

30. Specific to Westar, the Commission finds the settlement approved by the Commission in Westar's last general rate case regarding the creation of the "Residential Standard Distributed Generation" tariff remains in effect and customers who added DG on or after October 28, 2015, will be subject to the rate design change that occurs in future rate case dockets based on the policy established in this docket. The Commission finds this approach is appropriate because Westar's customers on its Residential Standard Distribution Generation tariff have received notice in Docket No. 15-WSEE-115-RTS and through Westar's outreach efforts.⁷⁷

31. Ninth, the Commission finds this S&A provides guidance to the cooperatives that have elected to be self-regulated pursuant to K.S.A. 66-104d, but such self-regulated cooperatives shall not be bound by the S&A. The Commission finds such non-binding guidance to be in the public interest because it acknowledges that the cooperatives regulatory structure is different from the other public utilities subject to the S&A, while identifying how the S&A impacts them.⁷⁸

⁷⁵ Direct Testimony in Support Lutz, p. 10.

⁷⁶ *Id.*

⁷⁷ Tr. Vol. 1, p. 124.

⁷⁸ Direct Testimony in Support Lutz, p. 10.

Whether the stipulation and agreement conforms with applicable law?

32. Because of the rationale laid out below in paragraphs 34-37 the Commission concludes the S&A is in conformance with applicable law.

Whether the stipulation and agreement results in just and reasonable rates?

33. The Commission finds the S&A does not change rates or rate design for any customer⁷⁹ and thus the S&A results in the continuation of existing rates which the Commission has previously found to be just and reasonable.

Whether the results of the stipulation and agreement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement?

34. The Commission interprets the S&A as a roadmap the electric utilities may pursue in future rate filings. The Commission interprets the S&A as establishing the following policies:

- a. utilities may determine whether a separate rate class is appropriate;⁸⁰
- b. utilities may provide cost data for that class through a class cost of service study as required by Commission regulation;⁸¹
- c. utilities are to provide cost data uniformly, excluding non-quantifiable societal benefits and externalities; and⁸²
- d. utilities may recommend the rate design appropriate for their electric system, service and customer base.⁸³

⁷⁹ Direct Testimony in Support Glass, p. 7.

⁸⁰ S&A, ¶¶ 9-10.

⁸¹ *Id.* at ¶ 13; *See also*, K.A.R. 82-1-231.

⁸² S&A, at ¶ 14.

⁸³ *Id.* at ¶ 11.

35. The Commission finds the S&A is in the public interest because it establishes a policy framework for implementing DG. This framework provides a means through which DG issues as yet undetermined can be addressed in a utility-specific rate case docket.

36. Similarly, though the record evidence supports a finding that DG customers are not paying their full fixed costs⁸⁴ and are thus being cross-subsidized by the other residential customers,⁸⁵ there is not sufficient evidence for the Commission to determine whether that cross-subsidization results in an unduly preferential rate because not all of the utilities provided analysis regarding the extent to which cross-subsidization exists.⁸⁶ The record suggests that information would only be available after the utilities completed a class cost of service study in their next rate case.

37. The Commission finds approving the S&A is in the public interest because it allows the parties to further develop the necessary facts on a utility by utility basis. Likewise, the Commission believes this course of action allows utilities to propose new DG tariffs consistent with terms of the S&A and for the Commission to address each proposal individually. The Commission finds the S&A allows the Commission to do so without negatively impacting any of the parties. The rights and obligations of the parties are the same following this order as they were at the beginning of this docket. Therefore, the Commission finds no party is negatively impacted by the S&A because it merely shifts the discussion and production of evidence into utility specific dockets, where the burden of proof remains on the utilities to show that their proposed rate design results in non-discriminatory and just and reasonable rates. Therefore, the Commission finds the S&A is in the public interest.

⁸⁴ Initial Comments Staff, p. 1.

⁸⁵ Initial Comments Staff, pp. 1, 4; Tr. Vol. 1, p. 112.

⁸⁶ Tr. Vol. 1 pp. 113-120; p.130; pp. 298-299.

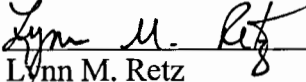
THEREFORE, THE COMMISSION ORDERS:

- A. The Non-Unanimous Stipulation and Agreement is approved.
- B. The parties have 15 days from the date this Order was electronically served to petition for reconsideration.⁸⁷
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: SEP 21 2017



Lynn M. Retz
Secretary to the Commission

SF

EMAILED

SEP 21 2017

⁸⁷ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

16-GIME-403-GIE

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on SEP 21 2017

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

MARTIN J. BREGMAN
BREGMAN LAW OFFICE, L.L.C.
311 PARKER CIRCLE
LAWRENCE, KS 66049
mjb@mjbregmanlaw.com

ANDREW J ZELLERS, GEN COUNSEL/VP REGULATORY
AFFAIRS
BRIGHTERGY, LLC
1712 MAIN ST 6TH FLR
KANSAS CITY, MO 64108
Fax: 816-511-0822
andy.zellers@brightergy.com

C. EDWARD PETERSON
C. EDWARD PETERSON, ATTORNEY AT LAW
5522 ABERDEEN
FAIRWAY, KS 66205
Fax: 913-722-0181
ed.peterson2010@gmail.com

GLENDA CAFER, ATTORNEY
CAFER PEMBERTON LLC
3321 SW 6TH ST
TOPEKA, KS 66606
Fax: 785-233-3040
glenda@caferlaw.com

TERRI PEMBERTON, ATTORNEY
CAFER PEMBERTON LLC
3321 SW 6TH ST
TOPEKA, KS 66606
Fax: 785-233-3040
terri@caferlaw.com

THOMAS J. CONNORS, ATTORNEY AT LAW
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.nickel@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov

CERTIFICATE OF SERVICE

16-GIME-403-GIE

SHONDA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
sd.smith@curb.kansas.gov

DOROTHY BARNETT
CLIMATE & ENERGY PROJECT
PO BOX 1858
HUTCHINSON, KS 67504-1858
barnett@climateandenergy.org

ARON CROMWELL
CROMWELL ENVIRONMENTAL, INC.
615 VERMONT ST
LAWRENCE, KS 66044
acromwell@cromwellenv.com

SUSAN B. CUNNINGHAM, ATTORNEY
DENTONS US LLP
7028 SW 69TH ST
AUBURN, KS 66402-9421
Fax: 816-531-7545
susan.cunningham@dentons.com

BRYAN OWENS, ASSISTANT DIRECTOR OF PLANNING &
REGULATORY
EMPIRE DISTRICT INDUSTRIES, INC.
602 JOPLIN
PO BOX 127
JOPLIN, MO 64802-0127
Fax: 417-625-5169
bowens@empiredistrict.com

JOHN GARRETSON, BUSINESS MANAGER
IBEW LOCAL UNION NO. 304
3906 NW 16TH STREET
TOPEKA, KS 66615
Fax: 785-235-3345
johng@ibew304.org

ROBERT J. HACK, LEAD REGULATORY COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
rob.hack@kcpl.com

ROBERT J. HACK, LEAD REGULATORY COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
rob.hack@kcpl.com

BRAD LUTZ, REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2110
brad.lutz@kcpl.com

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
roger.steiner@kcpl.com

NICOLE A. WEHRY, SENIOR REGULATORY
COMMUNICATIONS SPECIALIST
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
nicole.wehry@kcpl.com

ANTHONY WESTENKIRCHNER, SENIOR PARALEGAL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
anthony.westenkirchner@kcpl.com

CERTIFICATE OF SERVICE

16-GIME-403-GIE

SAMUEL FEATHER, DEPUTY GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
s.feather@kcc.ks.gov

JAKE FISHER, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
j.fisher@kcc.ks.gov

AMBER SMITH, CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
a.smith@kcc.ks.gov

KIM E. CHRISTIANSEN, ATTORNEY
KANSAS ELECTRIC COOPERATIVE, INC.
7332 SW 21ST STREET
PO BOX 4267
TOPEKA, KS 66604-0267
Fax: 785-478-4852
kchristiansen@kec.org

BRUCE GRAHAM, CHIEF EXECUTIVE OFFICER
KANSAS ELECTRIC COOPERATIVE, INC.
7332 SW 21ST STREET
PO BOX 4267
TOPEKA, KS 66604-0267
Fax: 785-478-4852
bgraham@kec.org

DOUGLAS SHEPHERD, VP, MANAGEMENT CONSULTING
SERVICES
KANSAS ELECTRIC COOPERATIVE, INC.
7332 SW 21ST STREET
PO BOX 4267
TOPEKA, KS 66604-0267
Fax: 785-478-4852
dshepherd@kec.org

ROBERT V. EYE, ATTORNEY AT LAW
KAUFFMAN & EYE
4840 Bob Billings Pkwy, Ste. 1010
Lawrence, KS 66049-3862
Fax: 785-749-1202
bob@kauffmaneye.com

SCOTT DUNBAR
KEYES FOX & WIEDMAN LLP
1580 LINCOLN STREET
SUITE 880
DENVER, CO 80203
sdunbar@kfwlaw.com

JACOB J SCHLESINGER, ATTORNEY
KEYES FOX & WIEDMAN LLP
1580 LINCOLN STREET
SUITE 880
DENVER, CO 80203
jschlesinger@kfwlaw.com

PATRICK PARKE, GENERAL MANAGER
MIDWEST ENERGY, INC.
1330 Canterbury Rd
PO Box 898
Hays, KS 67601-0898
Fax: 785-625-1494
patparke@mwenergy.com

ANNE E. CALLENBACH, ATTORNEY
POL SINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY, MO 64112
Fax: 913-451-6205
acallenbach@polsinelli.com

RANDY MAGNISON, EXEC VP & ASST CEO
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0430
Fax: 620-356-4306
rmagnison@pioneerelectric.coop

CERTIFICATE OF SERVICE

16-GIME-403-GIE

LINDSAY SHEPARD, EXECUTIVE VP - GENERAL
COUNSEL
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0430
Fax: 620-356-4306
lshepard@pioneerelectric.coop

JAMES BRUNGARDT, REGULATORY AFFAIRS
ADMINISTRATOR
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
jbrungardt@sunflower.net

AL TAMIMI, VICE PRESIDENT, TRANSMISSION PLANNING
AND POLICY
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
atamimi@sunflower.net

MARK D. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
mcalcara@wcrf.com

CATHRYN J. DINGES, SENIOR CORPORATE COUNSEL
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
cathy.dinges@westarenergy.com

LARRY WILKUS, DIRECTOR, RETAIL RATES
WESTAR ENERGY, INC.
FLOOR #10
818 S KANSAS AVE
TOPEKA, KS 66601-0889
larry.wilkus@westarenergy.com

RENEE BRAUN, CORPORATE PARALEGAL, SUPERVISOR
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
rbraun@sunflower.net

COREY LINVILLE, VICE PRESIDENT, POWER SUPPLY &
DELIVER
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
clinville@sunflower.net

JASON KAPLAN ESQ
UNITED WIND, INC.
20 Jay Street
Suite 928
Brooklyn, NY 11201
jkaplan@unitedwind.com

TAYLOR P. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
tcalcara@wcrf.com

JEFFREY L. MARTIN, VICE PRESIDENT, REGULATORY
AFFAIRS
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
jeff.martin@westarenergy.com

CASEY YINGLING
YINGLING LAW LLC
330 N MAIN
WICHITA, KS 67202
Fax: 316-267-4160
casey@yinglinglaw.com

CERTIFICATE OF SERVICE

16-GIME-403-GIE

/S/ DeeAnn Shupe
DeeAnn Shupe

MAILED

SEP 21 2017