

2. On June 17, 2021, the Commission issued a Suspension Order, setting a January 20, 2022 deadline to issue an Order in this Docket.⁴

3. On August 25, 2017, Great Plains Energy Incorporated (Great Plains), Kansas City Power & Light Company (KCP&L), Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an Application seeking approval of the merger of Westar and Great Plains Energy, the parent company of KCP&L in Docket No. 18-KCPE-095-MER (18-095 Docket). On May 24, 2018, the Commission issued its Order Approving Merger. On June 5, 2018, Great Plains, KCP&L, and Westar filed Applicants' Notice of Closing advising the Commission that their merger formally closed on June 4, 2018.⁵ Pursuant to K.S.A. 77-524(f), the Commission takes administrative notice of the filings in the 18-095 Docket.

4. As a result of the merger, KCP&L and Westar formed Evergy, Inc., with KCP&L's Kansas operations becoming Evergy Kansas Metro and Westar becoming Evergy Kansas Central. While the proposed merger was still pending, both KCP&L and Westar filed rate cases.

5. On May 1, 2018, KCP&L filed an Application for a rate increase in Docket No. 18-KCPE-480-RTS (18-480 Docket). On October 15, 2018, Staff; KCP&L; CURB; Walmart, Inc.; Midwest Division – OPRMC, LLC d/b/a Overland Park Regional Medical Center; Olathe Unified School District 233; Spring Hill Unified School District 230; Blue Valley Unified School District 229; Johnson County Community College; American Fuel & Petrochemical Manufacturers; Magellan Pipeline Company, L.P.; Petroleum Marketers and Convenience Association of Kansas, Inc.; and Kansas Gas Service, Inc., a division of ONE Gas, Inc. filed a Joint Motion for Approval of Unanimous Settlement Agreement in the 18-480 Docket. In relevant part, the proposed

⁴ Suspension Order, June 17, 2021, ¶ 4.

⁵ Applicants' Notice of Closing, June 5, 2018, ¶ 1.

settlement adopted a three-part rate for residential distributed generation customers.⁶ On December 13, 2018, the Commission approved the Unanimous Settlement Agreement in its entirety and incorporated the terms of the Unanimous Settlement Agreement into its Order.⁷ The Commission's Order was not appealed. Pursuant to K.S.A. 77-524(f), the Commission takes administrative notice of the filings in the 18-480 Docket.

6. On February 1, 2018, Westar filed an Application for a rate increase in Docket No. 18-WSEE-328-RTS (18-328 Docket). On July 17, 2018, Staff; CURB; Kansas Industrial Consumers; Unified School District #259; the Kroger Co.; the U.S. Department of Defense, Holly Frontier El Dorado Refining, LLC; Walmart, Tyson Foods, Topeka Metropolitan Transit Authority, and the Kansas State Board of Regents filed a Joint Motion to Approve Non-Unanimous Stipulation and Agreement. In relevant part, the Parties agreed that Westar would implement a three-part rate for the Residential Distributed Generation (DG) class with a demand charge of \$9.00 for the summer and of \$3.00 for the winter.⁸ On September 27, 2018, the Commission issued its Order Approving Non-Unanimous Stipulation and Agreement. The Sierra Club, Vote Solar, and Climate and Energy Project appealed the Commission's Order to the Court of Appeals, which affirmed the Commission's Order on April 12, 2019. Vote Solar and the Sierra Club appealed to the Supreme Court. On April 3, 2020, the Supreme Court reversed and remanded the Court of Appeals' decision.⁹ On remand, the Commission determined Westar's RS-DG rate class will remain a separate class for tracking purposes, and the RS-DG tariff will mirror the two-part rate design of the standard residential tariff and residential DG customers will be charged the identical

⁶ Joint Motion for Approval of Unanimous Settlement Agreement, Docket No. 18-KCPE-480-RTS, Oct. 15, 2018, ¶ 27.

⁷ Order Approving Unanimous Settlement Agreement, Dec. 13, 2018, Ordering Clause A.

⁸ Non-Unanimous Stipulation and Agreement, Docket No. 18-WSEE-328-RTS, July 17, 2018, ¶ 46.

⁹ *In the Matter of the Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Company*, 311 Kan. 320, 331 (2020).

rates as standard residential customers.¹⁰ Due to the voluntary nature of the RS-DG rate, where some customers elected to be grandfathered, and only a small number of customers benefitted from the RS-DG rates, the Commission ordered Evergy Kansas Central (formerly Westar) to only refund, and not collect, the difference in revenue collected under the RS-DG rate and the standard residential rate.¹¹ Pursuant to K.S.A. 77-524(f), the Commission takes administrative notice of the filings in the 18-328 Docket.

7. In discussion following the Commission's February 25, 2021 Order in the 18-328 Docket, Staff, Evergy, and CURB expressed concerns that Evergy Kansas Metro RS-DG customers may be troubled that they remain on a three-part demand rate, notwithstanding that the Evergy Kansas Metro rate was never legally challenged, while Evergy Kansas Central RS-DG customers are on a two-part rate design with identical rates as standard residential customers.¹² Because Evergy's customers may be confused by continued application of Evergy Kansas Metro's three-part RS-DG rate in light of the Supreme Court holding and the Commission's subsequent Order in the 18-328 Docket, on May 25, 2021, Staff, Evergy, and CURB filed their Joint Application to Discontinue Three-Part Demand Rate for Distributed Generation Customers, which would eliminate the existing Evergy Kansas Metro RS-DG rate until such time that Evergy brings forth and obtains approval for a residential DG rate consistent with the Supreme Court decision.¹³

8. In an effort to treat Evergy Kansas Metro's and Evergy Kansas Central's residential DG customers the same, Evergy, Staff, and CURB request the Commission allow Evergy Kansas Metro to: (1) preserve the Evergy Kansas Metro RS-DG class to allow Evergy Kansas Metro to track the class for future ratemaking purposes; and, (2) amend its RS-DG tariff to mirror the two-

¹⁰ Order, Docket No. 18-WSEE-328-RTS, Feb. 25, 2021, ¶ 60.

¹¹ Order on Petitions for Reconsideration, 18-WSEE-328-RTS, Apr. 8, 2021, ¶ 19.

¹² Joint Application to Discontinue Three-Part Demand Rate for Distributed Generation Customers, ¶ 5.

¹³ *Id.*, ¶ 6.

part rate design of the standard residential tariff, so RS-DG customers in Evergy Kansas Metro territory are charged the identical rate as standard residential customers.¹⁴ Similarly, Evergy, Staff, and CURB seek to handle refunds to Evergy Kansas Metro's RS-DG customers in the same fashion as refunds to Evergy Kansas Central's RS-DG customers, namely allowing Evergy Kansas Metro to refund, and not collect, the difference in revenue collected under the RS-DG rate to the standard residential rate.¹⁵ Lastly, Evergy, Staff, and CURB seek 60 days from the date of the Commission Order for Evergy Kansas Metro to implement the necessary tariff changes and issue refunds.¹⁶

9. The Joint Application to Discontinue Three-Part Demand Rate for Distributed Generation Customers is unopposed.

10. The law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith.¹⁷ Kansas law favors and encourages settlements.¹⁸ Here, the Joint Applicants represent a variety of interests, including shareholders, residential customers and the public generally. The terms agreed to by Evergy, Staff, and CURB appear to be fair and reasonable, and fully and fairly negotiated by the Parties.

11. The Commission agrees with the Joint Applicants that there is potential for confusion and anger over the disparate treatment of residential DG customers between Evergy's two Kansas service territories. The Commission believes it is in the public interest to treat residential DG customers consistently throughout Evergy's service territory. Therefore, to ensure that residential DG customers are treated the same throughout Evergy's Kansas service territory, the Commission grants the Joint Application to Discontinue Three-Part Demand Rate for

¹⁴ *Id.*, ¶ 7.

¹⁵ *Id.*, ¶ 8.

¹⁶ *Id.*, ¶ 9.

¹⁷ *Krantzv. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

¹⁸ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

Distributed Generation Customers. Evergy Kansas Metro is authorized to: (1) amend its RS-DG tariff to mirror the two-part rate design of the standard residential tariff and preserve the RS-DG class for tracking purposes; and (2) refund the difference in revenue collected under the RS-DG rate compared to what would have been collected under the standard residential rate, consistent with the Commission's directive in the 18-328 Docket. Evergy Kansas Metro has 60 days from the date of this Commission Order to implement the necessary tariff changes and issue refunds to the effected residential DG customers.

THEREFORE, THE COMMISSION ORDERS:

A. The Joint Application to Discontinue Three-Part Demand Rate for Distributed Generation Customers is granted.

B. Evergy Kansas Metro is authorized to amend its RS-DG tariff to mirror the two-part rate design of the standard residential tariff and preserve the RS-DG class for tracking purposes.

C. Evergy Kansas Metro is authorized to refund the difference in revenue collected under the RS-DG rate compared to what would have been collected under the standard residential rate, consistent with the Commission's directive in the 18-328 Docket.

D. Evergy Kansas Metro has 60 days from the date of this Commission Order to implement the necessary tariff changes and issue refunds to the effected residential DG customers.

E. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹⁹

¹⁹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 08/24/2021

Lynn M. Retz

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Executive Director

BGF

CERTIFICATE OF SERVICE

21-EKME-436-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/24/2021.

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