

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

In the Matter of the Joint Application of Westar)
Energy, Inc. and Kansas Gas and Electric)
Company for Amendment of the Grandfathering) Docket No. 19-WSEE-474-TAR
Dates in their RS-DG and RS Tariffs.)

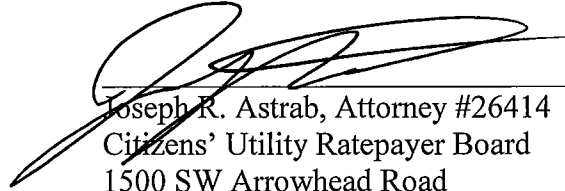
**NOTICE OF FILING OF CURB'S REPLY TO STAFF'S REPORT AND
RECOMMENDATION AND MOTION TO FILE REPLY OUT OF TIME**

COMES NOW, the Citizens' Utility Ratepayer Board (CURB), and files its Reply to Staff's Report and Recommendation, in the above captioned docket, which is attached hereto as "Attachment A." Furthermore, CURB moves the Commission to allow CURB to file its reply out of time. In support of this motion, CURB states:

1. On May 22, 2019, CURB filed its petition to intervene in the above captioned docket.
2. On May 30, 2019, the Commission issued an order granting CURB's petition to intervene. In that Order, the Commission also suspended the application and deferred the effective date until January 13, 2020, pursuant to K.S.A. 66-117(c).
3. Staff conducted an investigation of the application in this docket and released its Report and Recommendation on June 17, 2019.
4. Following this release, CURB staff was unable to review the Report and complete its reply because of an extended illness.
5. Counsel for CURB has spoken with Staff counsel regarding the circumstances behind the late filing and Staff counsel indicated that there were no objections to filing out of time.

WHEREFORE, CURB respectfully submits its reply to the Commission for its consideration and requests that the Commission allow the filing to be done out of time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Astrab', is written over a horizontal line. The signature is fluid and cursive.

Joseph R. Astrab, Attorney #26414
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**REPLY TO STAFF'S
REPORT AND RECOMMENDATION**

TO: Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

FROM: Josh Frantz, Senior Regulatory Analyst

DATE: July 2, 2019

SUBJECT: Docket No. 19-WSEE-474-TAR; In the Matter of the Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Company for Amendment of the Grandfathering Dates in their RS-DG and RS Tariffs

EXECUTIVE SUMMARY

In Docket No. 15-WSEE-115-RTS (“15-115”), the Kansas Corporation Commission (KCC or “Commission”) approved a separate tariff (Schedule RS-DG) for Westar’s residential customers who install distributed generation (DG) after October 28, 2015. Residential customers who installed DG prior to that date were “grandfathered” to Residential Standard Service (Schedule RS). At its creation, Schedule RS-DG was identical to Schedule RS, but in Docket No. 18-WSEE-328-RTS (“18-328”), the Commission approved a three-part rate design for Schedule RS-DG while Schedule RS retained a two-part rate design. Environmental and solar technology advocacy groups, including Climate + Energy Project (CEP), argued against the three-part rate design for DG customers.

As a result of a compromise with CEP, Westar is now requesting to adjust the Schedule RS-DG grandfathering date from October 28, 2015, to October 1, 2018. With this change, customers who connected DG to Westar’s system prior to October 1, 2018, will be switched to Schedule RS on a prospective basis. Customers connecting DG after October 1, 2018, would be required to take service under Schedule RS-DG.

The Citizens’ Utility Ratepayer Board (CURB) does not oppose Westar’s proposal to adjust the grandfathering date from October 28, 2015, to October 1, 2018, and switch all eligible Schedule RS-DG customers to Schedule RS. However, similar to Commission Staff (“Staff”), CURB proposes that these customers be given the opportunity to switch back to RS-DG, if they wish. Therefore, if the Commission approves adjustment of the grandfathering date as proposed, then CURB recommends that customers who connected DG to Westar’s system prior to October 1, 2018, be provided a one-time option (available for four months following the eventual Order date in this Docket) to switch back to Schedule RS-DG from Schedule RS.

Additionally, CURB supports Staff’s recommendation that Westar provide bill comparisons for the two rate designs for the period October 1, 2018, to the most recent month’s bill data available along with other educational information to customers affected by the change of the grandfather date. This way, with CURB’s recommended four-month decision window, affected customers debating whether to switch back to Schedule RS-DG should be able to review at least one full year of rate schedule bill comparison data.

BACKGROUND

Creation of Schedule RS-DG

Docket 15-115

Docket 15-115 established rate Schedule RS-DG for Westar’s residential customers who install DG after October 28, 2015. Customers who had installed DG before that date were allowed to remain on Schedule RS. The rate design for Schedule RS-DG in Docket 15-115 was identical to that of Schedule RS because the Commission wanted to identify and explore the potential complications created by DG before approving rate designs specifically for customers with DG.¹ Westar notified customers that the rates and rate structure of Schedule RS-DG could eventually differ from Schedule RS.²

Development of RS-DG Rate Design

Docket No. 16-GIME-403-GIE (“16-403”)

On July 12, 2016, the Commission opened Docket 16-403, a general investigation examining rate structure for customers with DG. In the Final Order of that Docket, the Commission described appropriate rate design options for residential private customers with DG—one such option was a cost of service three-part rate design with a demand charge.³

Docket No. 18-328

On September 27, 2018, in Docket 18-328, the Commission approved Westar’s three-part rate design for Schedule RS-DG.⁴ The approved rates were designed to be revenue neutral—i.e., the average total bill under Schedule RS-DG would be very close to the average total bill for a customer with DG under Schedule RS.⁵

Opposition to RS-DG Rate Design

Sierra Club and Vote Solar Appeal the 18-328 Orders

On October 12, 2018, Sierra Club and Vote Solar (environmental advocacy organizations) submitted a Petition for Reconsideration of the 18-328 Order, citing the following concerns: the revenue reduction allocation and RS-DG tariff were not supported by substantial, competent evidence; the RS-DG rate violates state and federal law; and the RS-DG rate is not in the public

¹ Order Approving Stipulation and Agreement, ¶ 117, Docket No. 15-WSEE-115-RTS (Sep. 27, 2019).

² See Joint Application for Amendment of Grandfathering Dates in RS-DG Tariffs, ¶3, Docket No. 19-WSEE-474-TAR (May 17, 2019) (“19-474 Application”).

³ See Final Order, ¶23, Docket No. 16-GIME-403-GIE (Sep. 21, 2017).

⁴ Order Approving Non-Unanimous Stipulation and Agreement, p. 42, Docket 18-WSEE-328-RTS (Sep. 27, 2019).

⁵ See KCC Staff Report and Recommendation, p. 4, Docket No. 19-WSEE-474-TAR (Jun. 17, 2019) (“KCC Staff R&R”).

interest.⁶ On November 8, 2019, the Commission denied that Petition, and so, on December 10, 2018, Sierra Club and Vote Solar notified the Commission that they had appealed the Commission’s 18-328 Orders to the Kansas Court of Appeals.⁷ Sierra Club and Vote Solar lost at the Kansas Court of Appeals, but appealed to the Kansas Supreme Court. As of the date of this Reply, the Kansas Supreme Court has not acted on that appeal.

Opponents Support Legislation Prohibiting DG Rates and Charges

During the 2019 Kansas Legislative Session, environmental advocates (including CEP and Sierra Club) supported legislation (SB 124) that would “prohibit any utility providing electrical service in Kansas from basing any rate, joint rate, toll, charge or classification or schedule of charges on different energy usage patterns of a distributed generation retail customer.” SB 124 was assigned to the Senate Utilities Committee and was heard by that Committee. As of the date of this Reply, no final action has been taken by the Senate Utilities Committee on SB 124 during the regular 2019 Legislative Session.

Westar’s Application

CEP—on behalf of residential customers with solar DG—expressed concerns to Westar that because nearly three years had passed before rates under Schedule RS-DG actually became different from rates under Schedule RS, RS-DG customers were confused by the change.⁸

In order to address the misunderstanding about the timing of the changes in rate structure and better align Westar’s RS-DG tariff adoption with Kansas City Power & Light Company’s tariff adoption for customers with DG, on May 17, 2019, Westar filed an Application in the instant Docket proposing to adjust the grandfathering cutoff date from October 28, 2015, to October 1, 2018. With this change, customers who connected DG to Westar’s system prior to October 1, 2018, would be switched to Schedule RS on a prospective basis and customers connecting DG after that date would be required to take service under Schedule RS-DG.⁹

CURB’s Intervention

On May 22, 2019, CURB requested intervention in this Docket and was granted intervention on May 30, 2019.

KCC Staff’s Report & Recommendation

On June 17, 2019, Staff filed its Report & Recommendation in the instant Docket. Staff recommends Westar be permitted to move the grandfathering date from October 28, 2015, to October 1, 2018. Staff further recommends Westar calculate bills for RS-DG customers eligible to be grandfathered by using both the RS-DG and the RS rate designs for the period October 1, 2018, to the most recent month’s bill data available and send the results to the eligible RS-DG customers so they can compare the effect of the different rate designs on their electric bill. Staff also recommends Westar include educational information for RS-DG customers that provides

⁶ Sierra Club and Vote Solar’s Petition for Reconsideration, ¶1, Docket No. 18-WSEE-328-RTS (Oct. 12, 2018).

⁷ Sierra Club and Vote Solar’s Notice of Appeal and Motion for Transmittal of Agency Record, Docket No. 18-WSEE-328-RTS (Dec. 10, 2018).

⁸ 19-474 Application, ¶4.

⁹ 19-474 Application, ¶5.

advice on how customers can control their demand. Finally, Staff recommends that Westar allow any RS-DG customers who want to remain on the RS-DG rate design the option to do so, and that Westar provide a window until October 1, 2019, during which RS-DG customers can change (only once) the rate design they wish to be on.¹⁰

ANALYSIS

The RS-DG Rate Design is Approximately Revenue Neutral

CURB agrees with Westar and Staff's assertions that the RS-DG rates were calculated to be approximately revenue neutral and therefore the proposed change of the grandfathering cutoff date should have no impact on the rates paid by any other customer class.¹¹ Furthermore, this change will only affect approximately 350 customers.¹²

Because the proposed change of the grandfathering cutoff date should have no impact on the rates paid by other customer classes and because the change affects such a small number of customers, CURB does not oppose adjusting the Schedule RS-DG grandfathering date from October 28, 2015, to October 1, 2018 and switching eligible customers from Schedule RS-DG to Schedule RS.

Affected Customers Should Have the Option to Return to Schedule RS-DG

According to Staff's Report, RS-DG customers experienced slight savings during the six-month period of October 2018–March 2019, as compared to Schedule RS.¹³ Furthermore, many RS-DG customers may have already acclimated to that rate structure. Therefore, some RS-DG customers who would be grandfathered to Schedule RS based upon their connection date may wish to return to Schedule RS-DG, so both CURB and Staff recommend affected customers be allowed one opportunity to switch rate schedules.

Whereas Staff recommends affected customers be allowed until October 1, 2019, to exercise a one-time option to switch rate schedules, CURB does not believe this will allow enough time for customers to make a well-thought decision. Using October 1, 2019, as a cutoff date, from the date of this Reply, customers would have less than three months to make that decision *and* there is still an Order yet to be issued, *and* Westar would need time post-Order to generate rate schedule billing comparisons (which likely would not include twelve months of billing data) and provide other educational materials. Thus, if the grandfather date is adjusted as proposed, then CURB recommends (as an alternative to Staff's and Westar's recommendations) that Westar inform the affected customers they may opt to return to Schedule RS-DG within four months of the eventual Order date in this Docket. However, if the customer does exercise this option to switch back to Schedule RS-DG, they should not be allowed to return to Schedule RS.

Additionally, CURB supports Staff's recommendation that Westar provide bill comparisons for the two rate designs and educational information to customers affected by the change of the grandfather date. Furthermore, because CURB recommends allowing customers a four-month

¹⁰ KCC Staff R&R, pp. 11–12.

¹¹ See KCC Staff R&R p. 4 and 19-474 Application, ¶6.

¹² See KCC Staff R&R, Table 2.

¹³ See KCC Staff R&R, pp. 7–8.

window to decide whether to switch classes, CURB recommends Westar provide bill comparisons for the two rate designs on an individual basis for the period October 1, 2018, to the most recent month's bill data available until each affected customer has either switched classes or until the window of opportunity to switch rate schedules has expired. With a four-month window for decision, customers debating whether to switch classes should have the opportunity to receive and review at least a full year of rate schedule comparison data.

CONCLUSION

Summary of Recommendations

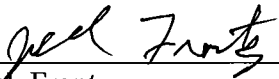
CURB does not oppose Westar's proposal to adjust the Schedule RS-DG grandfathering cutoff date from October 28, 2015, to October 1, 2018, and switch eligible customers from Schedule RS-DG to Schedule RS.

However, if the change of grandfather date is approved, CURB recommends affected customers be allowed four months from the eventual Order date to exercise a one-time option to switch from Schedule RS back to Schedule RS-DG. Additionally, CURB supports Staff's recommendation that Westar provide bill comparisons for the two rate designs for the period October 1, 2018, to the most recent month's bill data available along with other educational information to customers affected by the change of the grandfather date. In this way, with a four-month window of opportunity to switch rate schedules, affected customers should be able to review at least one full year's worth of bill comparison data before making a decision.

VERIFICATION

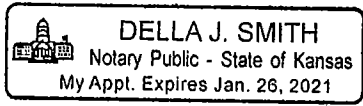
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

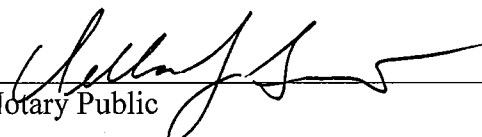
I, Josh Frantz, of lawful age and being first duly sworn upon my oath, state that I am a Senior Regulatory Analyst for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Josh Frantz

SUBSCRIBED AND SWORN to before me this 2nd day of July, 2019.





Notary Public

My Commission expires: 01-26-2021.

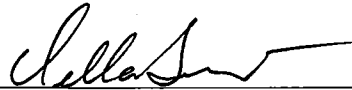
CERTIFICATE OF SERVICE

19-WSEE-474-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 2nd day of July, 2019, to the following:

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