

**BEFORE 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) Docket No. 18-WSEE-328-RTS
for Approval to Make Certain Changes in their)
Charges for Electric Services.)

PETITION FOR RECONSIDERATION AND CLARIFICATION

COME NOW Southern Pioneer Electric Company (“Southern Pioneer”) and Pioneer Electric Cooperative, Inc. (“Pioneer”) (together “Pioneer”), Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together “Evergy”), Kansas Electric Cooperatives, Inc. (“KEC”), Midwest Energy, Inc. (“Midwest”), Sunflower Electric Power Corp. (“Sunflower”), Kansas Electric Power Cooperative, Inc. (“KEPCo”), and Empire District Electric Company (“Liberty-Empire”) all referred to collectively herein as “Joint Petitioners,” and pursuant to K.S.A. 66-118b, K.S.A. 77-529, and K.A.R. 82-1-235, request reconsideration and clarification of the *Order* (“Order”) issued in this docket by the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) on February 25, 2021. In support of their Petition, Joint Petitioners state as follows:

I. INTRODUCTION

1. The Order specifically addresses Evergy’s proposed alternatives to the residential distributed generation (“RS-DG”) rate approved by the Commission in its initial order and overturned by the Kansas Supreme Court on appeal. The Commission rejected Evergy’s proposed grid access charge (“GAC”) and its \$35 minimum monthly bill options, finding, instead, that (1)

the RS-DG rate class will remain a separate class for tracking purposes, (2) the RS-DG rate will mirror the two-part rate design of the standard residential tariff, (3) RS-DG customers will be charged the identical rate as standard residential customers, and (4) no refund will be required. Joint Petitioners are not requesting reconsideration of the foregoing aspects of the Order.

2. The Commission's Order also set out some general guidance for the parties regarding the issue of residential DG.¹ Many of the Joint Petitioners requested this guidance to assist them in structuring future filings that address rate design DG customers, and the Commission's willingness to provide it is appreciated. However, there are two aspects of the Commission's Order in this regard on which Joint Petitioners request reconsideration for purposes of clarification. Joint Petitioners request that the Commission grant reconsideration for purposes of clarifying that (a) it is acceptable to propose different rates for "different services" as well as "additional services," and those services are not limited to only export service, and (b) the Commission did not intend to adopt incremental costs as the only acceptable method for supporting rates on different or additional services proposed to address the subsidy flowing from non-DG to DG customers.

II. ISSUES FOR RECONSIDERATION OR CLARIFICATION

(a) The Order Should Make Clear That It Applies To "Different Services" As Well As "Additional Services" and is not Limited to Only Export Services.

3. Throughout testimony, hearing, and briefs, the parties referred to "different services" in analyzing the limitations of the Supreme Court Order. The Supreme Court Order, itself, acknowledged that, "K.S.A. 66-117d is an antidiscrimination provision that prohibits utilities from charging DG customers a higher price than non-DG customers *for the same service.*"²

¹ Order, p. 19, ¶48.

² Supreme Court Order, p. 826 (emphasis added).

4. In reciting the evidence in the record, the Order repeatedly includes “different services,” as well as “additional services” and “separate services.”³ The Commission found that the Supreme Court Order does not restrict rate structures that contain separate rates for services that are not the same.⁴ However, in making this finding, the Order frequently only references “additional service.”⁵ It appears the terms were viewed somewhat interchangeably in the Order,⁶ but there can be distinctions depending upon the specific service at issue. To avoid future disagreement or confusion over this aspect of the Order, Joint Petitioners request the Commission grant reconsideration and clarify that its findings and guidance apply to different services as well as additional services.

5. Similarly, Joint Petitioners recognize that the Order does not limit the type of services that can be proposed in the future to only export services. In fact, the Commission specifically set out in the Order the list of potential services identified by Southern Pioneer’s witness, Mr. Rich Macke, as an example.⁷ However, because the Order seems to focus primarily on export services, Joint Petitioners are requesting the Commission clarify that the Order was not intending to limit the services that could be proposed in the future to only export service.

(b) The Order Should Clarify that Cost Support for Services is not Limited to Incremental Costs.

6. The Order makes clear that any proposed different or additional services proposed in the future must be supported with costs, which is consistent with the position of the parties to the docket. Throughout the Order, the Commission references costs without analyzing whether a

³ For example, Order, pp. 17-18, ¶ 43 and p. 18, ¶ 44. See also, Order, p. 16, ¶41, “The parties differ on whether DG customers are receiving an added or different service from non-DG customers.”

⁴ Order, p. 19, ¶48.

⁵ Order, p. 16, ¶¶39,40; pp. 18-19, ¶45.

⁶ For example, see Order at p. 16, ¶41, referring to “added,” “different,” and “separate”.

⁷ Order, pp. 16-17, ¶41.

specific type of costing methodology is required, and there is no analysis in the Order concerning the appropriate cost methodology. However, in evaluating whether the GAC was adequately supported by costs, the Order states that Evergy did not identify and calculate “the *incremental* costs associated with that service.”⁸ Further, the Commission stated that, “Had Evergy demonstrated its proposed GAC was based on the *incremental* costs of an additional exporting service, rather than simply a more generalized attempt to eliminate the subsidy to DG residential customers, the Commission would have given serious consideration to the GAC.”⁹ The use of the word “incremental” in the Order in this way could cause confusion in future filings.

7. Joint Petitioners do not believe the Order was intended to adopt “incremental costs” as the mandatory standard for obtaining approval of a rate for a service proposed in the future under the guidelines of the Order. The Commission bases rates on embedded cost of service, not incremental costs. Furthermore, rates based upon incremental costs will not address the subsidy flowing from non-DG customers to DG customers that the Commission continues to recognize is a problem.¹⁰ This subsidy is based on who is paying the embedded cost of service, so using incremental cost-based rates will not address it. As such, to the extent the Order is interpreted to require incremental cost-based rates, it is internally inconsistent, and it should be made clear that this is not the interpretation of the Order the Commission intended. Joint Petitioners, therefore, request the Commission clarify that this was not the intent by modifying the language to read “incremental or some other cost analysis” wherever the Order refers only to incremental costs. This would allow the utilities to propose a different or additional service charge under the

⁸ Order, p. 19, ¶46 (emphasis added).

⁹ Order, pp. 19-20, ¶48 (emphasis added).

¹⁰ Order, p. 18-19, ¶45; p. 25, ¶60.

guidelines of the Order based on the usual cost of service principles normally employed by the Commission for other rates.

III. PRAYER FOR RELIEF

8. For the foregoing reasons, Joint Petitioners request the Commission grant reconsideration for purposes of clarifying or modifying the Order to state that:

- a. It is acceptable to propose different rates for “different services” as well as “additional services.”
- b. Different or additional services that can be proposed under the Order are not limited to only export service.
- c. The Commission did not intend to adopt incremental costs as the only acceptable method for supporting rates for different or additional services proposed to address the subsidy flowing from non-DG to DG customers.

Respectfully submitted,

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VERIFICATION

I, Glenda Cafer, verify under penalty of perjury that I have caused the foregoing pleading to be prepared; that I have read and reviewed the same; and that the contents thereof are true and correct to the best of my information, knowledge, and belief.

Glenda Cafer

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing pleading was electronically served this 12th day of March, 2021 to:

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