

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Southern)
Pioneer Electric Company for Approval of its) Docket No. 24-SPEE-540-TAR
Renewable Energy Program Rider Tariff.)

**RESPONSE OF THE CITIZENS' UTILITY RATEPAYER BOARD
TO STAFF'S REPORT AND RECOMMENDATION**

COMES NOW the Citizens' Utility Ratepayer Board (CURB) and submits its Response to the Report and Recommendation, filed by Kansas Corporation Commission Staff (“Staff”) with the Kansas Corporation Commission (KCC or “Commission”) in the above-captioned docket on May 31, 2024. CURB supports approval of the Renewable Energy Program Rider Tariff (“RE Program”) with the stipulations provided by Staff. In support thereof, CURB states as follows:

Background

1. On January 31, 2024, Southern Pioneer Electric Company (“Southern Pioneer” or “Company”) filed an Application with the Commission requesting approval to implement a program geared towards giving customers the ability to explore renewable energy resources through a new rider.¹ The RE Program was developed by Sunflower Electric Power Corporation (“Sunflower”) who then administers it through its member cooperatives. Company Witness Chantry Scott provided direct testimony that describes the programs and offerings. The RE Program is divided between wind and solar energy resources and uses a tiered system to separate eligibility and offers for different customer classes.²

1 Southern Pioneer Electric Company Application for Approval of its Renewable Energy Program Rider Tariff (January 31, 2024). (“Application”)

2 Direct Testimony of Chantry C. Scott on Behalf of Southern Pioneer Electric Company, pg. 5, lns. 3-17 (January 31, 2024). (“Scott Direct Testimony”)

2. Wind and Solar Divisions contain 3 tiers of service based on usage and size criteria to determine participation eligibility. Offerings are divided into ones for Commercial and Industrial customers (“C& I Customers”) and ones for Residential customers. C&I Customers are able to participate in Wind Tiers 1, 2, and 3 and Solar Tiers 1a, 2, and 3. Tier 1 allows the customer to purchase Renewable Energy Credits (“RECs”) associated with existing renewable generation from the Company through a separate line-item on customer bills. Tier 2 allows the customer to participate in existing Purchase Power Agreements (“PPA”) to receive revenues associated with the sale of that power. Tier 3 functions like Tier 2, except that Tier 3 will utilize future resource acquisitions rather than ones currently in place.

3. Residential customers are able to participate in Solar Tier 1b, which is also known as the Community Solar Program. This program allows customers to buy 125 kWh shares from an existing solar farm. Customers can buy shares up to an amount equal to their total energy usage, which is on average about 1,000 kWh, or eight shares.³ Participating customers will see two line-items on their bill; one for the fixed price cost for the share(s), and one for the margins on the sale of the energy produced by the solar farm. The net of the fixed participation fee and market revenue adjustment will be used to offset or add to the electric bill. Non-participating customers will not have to pay for costs associated with administering the RE Program.

4. On February 2, 2024, CURB filed for intervention.⁴ On February 8, 2024, the Commission granted CURB intervention.⁵

3 Scott Direct Testimony at pg. 12, Ins. 12-20.

4 CURB Petition to Intervene and Motion for Protective Order, Discovery Order and Order Assessing Cost (February 2, 2024).

5 Order Granting CURB's Petition to Intervene; Protective and Discovery Order (February 8, 2024).

5. On May 31, 2024, Staff filed its Report and Recommendation (“R&R”) with its support for the RE Program and a number of stipulations for approval.⁶ Staff evaluated the different tiers based on the financial and indirect benefits for these offerings. Staff examined the renewable energy market and trends regarding pricing to determine how beneficial the Community Solar Program could be for residential customers. However, due to volatile fuel prices and modeling provided from the Company, Staff could not provide any estimate of cost savings or premiums. However, Staff finds benefits in the RE Program based on the RE Program’s alternative to direct ownership and installation of solar panels and the Program’s voluntary nature. Further, Staff concluded that the indirect value associated with keeping larger customers on the system through the availability of RECs and renewable offers provided residential customers a benefit in the form of large load customers contributing to fixed costs versus leaving the system.

6. Staff evaluated the Tier 3 C&I Customer contracts and concludes that the provisions are sufficient to vet potential customers and to mitigate the impact of early termination and defaults from impacting the Company and its other customers. Staff has identified a shortcoming with these provisions on the process for allocating proceeds from a settlement or judgment stemming from a default on a customer contract. As a result, Staff recommends that the Commission include two stipulations in the event of a Tier 3 customer default. Staff recommends that Sunflower and/or Southern Pioneer must pursue all legal recourse against a defaulting customer to recover any damages suffered by the early termination to minimize the impact on Southern Pioneer’s retail customer base. If in the event that Sunflower/Southern Pioneer puts any PPA portion of a defaulted customer into its Energy Cost Adjustment (“ECA”), then Sunflower

⁶ Notice of Filing of Staff Report and Recommendation (May 31, 2024). (“Staff’s R&R”)

must flow-through any legal proceeds it receives from the customer through the ECA, minus legal fees incurred to get a judgment or settle damages.

CURB's Response

7. CURB has evaluated the Application and Staff's R&R from the perspective of residential and small commercial retail ratepayers. CURB examined this request for the purpose for which it is being created, what types of expenses are being collected, and the impacts on customers' bills. It is important to note that the RE Program is completely voluntary for customers and is not being implemented by the utility in order to address a deficiency in providing safe and reliable service. CURB believes that such a program should have minimal detrimental impacts on non-participating customers while ensuring that participating customers are able to clearly understand the purpose and value of their participation. CURB is focusing its response on the Tier 1b Residential Community Solar Program, but will also briefly address concerns with the Tier 3 subscriptions. However, silence on any other aspect of the RE Program does not constitute approval of that aspect and CURB reserves the right to change its position in the future.

8. CURB supports providing customers the opportunity to explore renewable energy resources through utility-sponsored programs. Renewable energy, particularly solar, is widely available for individual households and businesses to install a personal system to reduce dependence on a utility's grid and to reduce one's carbon footprint. However, high costs of installation and maintenance combined with varying degrees of financial returns can be a deterrent to pursuing self-generation. Mr. Scott with the Company testifies that the RE Program provides an alternative to self-generation that allows customers access to renewable energy without the cost

and commitment issues associated with ownership.⁷ Mr. Scott cites several residential consumer benefits to the RE Program, most of which involve providing an alternative to customers who otherwise would not be able to install their own solar panels.⁸ Residential customers are able to buy shares in a community solar project that utilizes energy from a pre-existing solar energy agreement without actual ownership of any additional equipment. Customers who rent or have homes not suited for panels but who have an interest in renewable energy, seem to be the primary market for the Community Solar Program. Customers are able to gauge their tolerance for bill increases and number of shares relative to usage, similar to the considerations that go into installing solar panels. Even customers who have the resources to install their own solar panels may prefer the RE Program as a middle road compared to the long-term commitment and additional risks of ownership. Because the RE Program is voluntary, uninterested customers can simply maintain the status quo. The tiered structures and participation caps for each tier use metrics based on actual performance of renewable resources and PPAs and historic customer usage. This avoids customers inappropriately participating in a tier and being unable to comply with the terms. Therefore, the RE Program does not appear to risk disrupting regular service while providing opportunities for interested customers.

9. CURB supports Staff's recommendation that the Company refine its educational materials to specify the details of participating in the Community Solar Program because that will manage reasonable expectations and reduce the risk of customer dissatisfaction. As mentioned above, the RE Program for residential customers is geared towards attracting customers who are unable to own panels or are on the fence about installing solar panels. Customers who wish to

⁷ Scott Direct Testimony at pg. 4, lns. 7-17.

⁸ Id. at pg. 18, lns. 7-23.

directly proliferate renewable resource use for themselves or the Company would likely be disappointed to learn that the Tier 1b level of participation does not add new renewable resources to the system; the associated resource is already part of Sunflower's portfolio. That type of reaction could lead to customer complaints and negative feelings toward the Company for future programs. CURB certainly does not want its constituents to feel that they have been tricked by a regulated utility. Not only should the RE Program's educational material be specific and detailed, it should also be distributed at a sufficient pace to ensure that all customers are able to get information to make an informed decision.

10. CURB recommends that the Company maintain frequent contact with CURB and Staff leading up to the rollout of the RE Program to make sure that the educational materials and marketing is appropriately developed. Further, if customers raise complaints about marketing materials, Southern Pioneer should inform CURB and Staff to discuss issues and whether changes need to be made. While the Company has an interest in promoting the RE Program and driving participation early, it is more important for customers to be completely informed while also free from unreasonable amounts of solicitations. CURB is ready and willing to consult with Southern Pioneer on issues such as content and frequency of marketing efforts.

11. CURB believes that the RE Program will be a self-funding program with no costs or expenses being collected from non-participants. The program, including administrative costs, will be paid for by participating customers and their subscription fees. Regarding the Community Solar Program, participation is limited by the number of shares assigned to the Company for a resource that already exists in Sunflower's portfolio, so the risk of expanding too fast or having unsold shares does not present an immediate risk of unforeseen expenses. The participation fees have been calculated to include the costs to run the program. CURB has met with the Company

regarding funding and is comfortable with the structure to avoid costs being assigned to non-participants.

12. However, there exists the risk of costs associated with Tier 3 of the Program regarding C&I Customer participation and new resources. The Company proposes to collect exit fees from a customer who causes Sunflower to obtain new renewable resources, but then later defaults on the service agreement. Staff's recommendation goes beyond this and asks that the Company stipulates to pursuing all legal recourse to minimize the impact of a customer default on other retail customers. Furthermore, if any default costs are added to the ECA, then Southern Pioneer would flow any legal proceeds from those efforts through its ECA for the benefit of its retail customers.

13. CURB supports Staff's proposed stipulations because they provide added protection for retail customers and help to ensure that expenses associated with the RE Program are not borne by non-participants. CURB expects Sunflower to only pursue new resources once Sunflower is assured that Tier 3 participation levels are sufficient to maintain service until the end of the contract. The appeal for C&I Customers is the ability to source its energy use from a renewable resource. Insofar as the system benefits from retaining large customers through renewable energy offerings, extensive legal proceedings may deter a business from participating in the RE Program or even staying on the system overall. Utilities may be unwilling to aggressively pursue legal remedies for such a customer at the risk of pushing the customer away. CURB believes that the Company should keep CURB and Staff apprised of the development of a default and the efforts to enforce the financial provisions to make Sunflower/Southern Pioneer whole. As such, Staff's stipulation regarding legal efforts should go further to require Southern Pioneer to report to CURB and Staff about the status of such litigation as soon as practicable and within

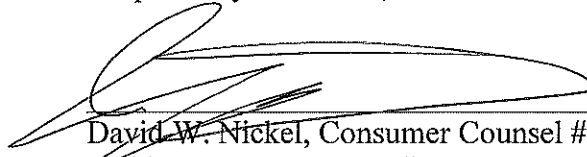
reasonable bounds as dictated by confidentiality concerns. Having these discussions as the issue is developing is preferable to learning about the dispute after it is too late to obtain relief. CURB is not seeking to micromanage the Company's legal battles, but prefers to be informed about efforts to ensure that a meaningful effort is made on behalf of retail customers.

Conclusion

14. CURB supports the RE Program with Staff's stipulations. While not required for providing service, the RE Program offers residential customers the opportunity to participate in the solar market without the expenses and effort of owning self-generation. CURB believes that the program is appropriately designed to contain benefits and costs to only participating customers and that minimizes the risks of additional costs on non-participating customers. Participation is voluntary and customers who choose to opt in are able to opt out within a reasonable timeframe. Staff's recommendation to enhance educational materials will help promote informed decisions and increase customer satisfaction with the RE Program. CURB and Staff are available and would be good resources for the Company to utilize to ensure an appropriate level of customer education. CURB supports Staff's proposed stipulations to minimize retail customer impacts due to C&I Customer participation and default. To increase the effectiveness of those stipulations, the Company should notify CURB and Staff of when such defaults are occurring and the efforts to mitigate any harm as soon as practicable rather than after the matter is settled.

WHEREFORE, CURB submits its response to Staff's R&R and the Application and asks the Commission to approve the RE Program as modified by Staff's R&R and this response and to issue any and all orders as deemed appropriate.

Respectfully submitted,



David W. Nickel, Consumer Counsel #11170

Todd E. Love, Attorney #13445

Joseph R. Astrab, Attorney #26414

Citizens' Utility Ratepayer Board

1500 SW Arrowhead Road

Topeka, KS 66604

(785) 271-3200

d.nickel@curb.kansas.gov

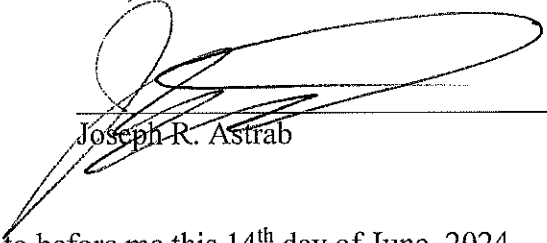
t.love@curb.kansas.gov

j.astrab@curb.kansas.gov

VERIFICATION

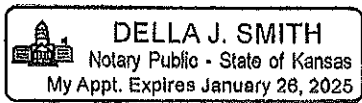
STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

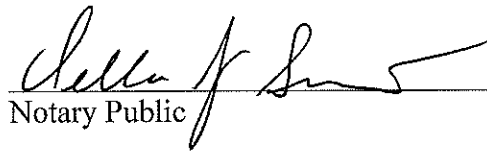
I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 14th day of June, 2024.





Notary Public

My Commission expires: 01-26-2025.

CERTIFICATE OF SERVICE

24-SPEE-540-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 14th day of June 2024, to the following:

JAMES P. ZAKOURA, ATTORNEY
FOULSTON SIEFKIN LLP
7500 COLLEGE BOULEVARD, STE 1400
OVERLAND PARK, KS 66201-4041
izakoura@foulston.com

JEFFRY POLLOCK
J. POLLOCK, INCORPORATED
14323 South Outer 40 Rd.
Ste. 206N
Town and Country, MO 63017-5734
JCP@JPOLLOCKINC.COM

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

KYLER C. WINEINGER, ASSISTANT
GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
k.wineinger@kcc.ks.gov

VALERIE SMITH, ADMINISTRATIVE
ASSISTANT
MORRIS LAING EVANS BROCK & KENNEDY
800 SW JACKSON
SUITE 1310
TOPEKA, KS 66612-1216
vsmith@morrislaing.com

TREVOR WOHLFORD, ATTORNEY
MORRIS LAING EVANS BROCK & KENNEDY
800 SW JACKSON
SUITE 1310
TOPEKA, KS 66612-1216
twohlford@morrislaing.com

GLENDIA CAFER, MORRIS LAING LAW FIRM
MORRIS LAING EVANS BROCK & KENNEDY
CHTD
800 SW JACKSON STE 1310
TOPEKA, KS 66612-1216
gcafer@morrislaing.com


SHELBY HUGHART, LEGAL ASSISTANT
MORRIS LAING EVANS BROCK & KENNEDY
CHTD
300 N MEAD STE 200
WICHITA, KS 67202-2745
shughart@morrislaing.com

WILL B. WOHLFORD, ATTORNEY
MORRIS LAING EVANS BROCK & KENNEDY
CHTD
300 N MEAD STE 200
WICHITA, KS 67202-2745
wwohlford@morrislaing.com

LINDSAY CAMPBELL, CHIEF EXECUTIVE
OFFICER
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0368
lcampbell@pioneerelectric.coop

LARISSA LAYMAN, LEGAL & REGULATORY
AFFAIRS COORDINATOR
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0368
LLAYMAN@PIONEERELECTRIC.COOP

CHANTRY SCOTT, EXEC VP, ASST CEO &
CFO
SOUTHERN PIONEER ELECTRIC COMPANY
1850 WEST OKLAHOMA
PO BOX 403
ULYSSES, KS 67880
CSCOTT@PIONEERELECTRIC.COOP



Della Smith
Senior Administrative Specialist