



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES JAN. 2004

KCC to Investigate Legality of Low-Income Utility Rates

On December 17, 2003, the Kansas Corporation Commission issued an order announcing the beginning of its investigation into whether Kansas utilities may offer discounted rates to low-income customers without violating Kansas law.

Many, if not most, states permit utilities to offer discounted rates to persons of limited means. Under federal law, telephone companies in Kansas offer discounted, or "lifeline" rates for basic phone service to those who qualify.

In past dockets, however, the KCC determined that allowing electric or natural gas utilities to offer discounts only to certain customers would violate the state's statutory prohibition against unduly discriminatory or preferential rates.

However, there may be circumstances in which such rates may be permissible under current law. For example, electric and gas utilities are allowed to offer discount rates to large-volume customers, who

usually negotiate substantial discounts based on volumes and their ability to relocate to obtain cheaper rates or to switch to a supplier with a lower rate.

CURB believes that it is likely that there are savings that will result from reducing rates to low-income customers that may offset the costs, making such rates reasonable. If it can be proven that discounts reduce the number of costly disconnections, reconnections and customer contacts that occur each year, giving lower rates to those who perennially experience difficulties keeping their utility bills paid may be a sensible and reasonable alternative.

The KCC has asked for comments from interested parties to be filed by February 6, 2004. Those who wish to comment should read the December 17 Order, which contains a list of questions the Commission would like the parties to address.

KCC Docket No. 04-GIMX-531-GIV

LIHEAP Funds Released Early to States

Federal funds earmarked for state low-income home energy assistance programs have been released earlier than usual this year.

Kansas received over \$12 million of its 2004 allocation just prior to the end of 2003, and is due to receive a second allocation in early January 2004.

Governor Kathleen Sebelius joined other governors in seeking early release of the funds.

The governors also sought increases in their allocations because depressed economic conditions have caused requests for assistance to rise to record levels, and because of elevated natural gas prices this heating season.

However, funding is determined by the allocation made by Congress in the annual energy bill. Congress left for the holidays without resolving differences between the House and Senate versions of the bill.

(See LIHEAP, page2)

LIHEAP

(Continued from Page 1)

Although there is some hope that a recommended increase will survive the final version, there are no guarantees.

Early arrival of the funds does not guarantee earlier receipt of the funds by persons receiving LIHEAP assistance, but should help the agencies charged with distributing the funds to get an early start on preparing to distribute payments.

Those interested in seeing Congress increase LIHEAP funding should contact their representatives in Congress.

Westar Finds Buyers for Protection One, Aircraft

Westar Energy has announced that it has a buyer for its troubled affiliate, Protection One, and hopes to complete the sale by the end of January.

Quadrangle Capital Partners has agreed to buy Westar's interest in the floundering home security monitoring company, which has not shown a profit since Westar purchased it in the late 1990s.

Quadrangle will acquire all of the P-One stock Westar holds, and will acquire a senior credit facility that was the subject of much criticism at the KCC. Protection One's borrowing of several hundred million from Westar led the KCC to place a cap on Westar's lending.

Quadrangle is an investment

company that specializes in buying troubled companies and restructuring them.

If the company is not successful in restructuring P-One's huge mountain of debt, it is anticipated that it will be forced into bankruptcy.

According to Westar personnel, Quadrangle will assume the responsibility for the payment of \$10-plus million in change-of-control payments to five top executives at P-One.

These payments became the source of much rancor among parties in the restructuring docket when P-One revealed in an SEC filing that it had agreed to make the payments only a week after it had convinced the KCC to relax restrictions on P-One borrowing from Westar.

Westar has consistently claimed that it had no idea that P-One had planned to increase severance payments substantially in case of a change of control—which was almost inevitable, given Westar's announcement that it intended to sell P-One to meet the KCC's demands that the company reduce its debt load.

Westar has also found a buyer to take over its leases of a Citation VII jet and the hangar at Forbes Field where the company jet has sat idle since last year. DW Enterprises LC, of Wamego, has agreed to acquire Westar's interests in the leases.

Westar must receive the KCC's approval of these sales.

KCC Docket No. 01-WSRE-949-GIE

Atmos, Parties Settle Rate Case

Atmos elected not to pursue its request for a \$7.4 million increase in rates, and settled for a much smaller \$2.5 million increase in reaching settlement between Atmos Energy, CURB, the KCC Staff, Everest Midwest and Seminole Energy.

The settlement was approved by the KCC on January 5, 2004.

CURB was pleased with several provisions of the agreement, including the company's agreement not to seek recovery of merger costs associated with its acquisition of United Cities Gas and Greeley Gas Companies, and agreement to not to seek recovery in rates of bad debt that had been authorized by a previous accounting order.

Additionally, Atmos agreed not to file another rate increase request at any time prior to September 1, 2005.

The parties also agreed that review of certain issues involving depreciation and surcharges to support research and development would be more appropriate for a generic docket.

In an effort to equalize rates system-wide, Atmos will now have only two rate areas instead of five, but customer charges will be the same in both. Most of the increase will be reflected in increased customer charges. Residential customer charges were set at \$8.00 per month, and commercial firm sales customer charges were set at \$16.00 per month.

While increased customer charges are never popular, there is general consensus among economists that keeping customer charges artificially low does no favor to consumers, who end up making up for the difference in higher volumetric charges. Higher volumetric charges hurt most when usage is highest—the winter months. Bringing customer charges up to more realistic levels helps keep winter bills reasonable.

KCC Docket No. 03-ATMG-1036-RTS

Editorial

Energy Hog Housing Makes Life More Difficult for the Poor

As difficult economic conditions plague our state, and with the numbers of families seeking assistance with utility bills at record levels, organizations that provide aid are being overwhelmed with requests for more aid than they can satisfy.

Unfortunately, if we don't address the conditions that create unaffordable utility bills in the first place, we will continue to throw money at the problem, year after year, without making any headway towards a solution.

One of the biggest problems is that far too many of the residences that low-income families can afford are simply energy hogs. As a result, the poor often end up paying much more for their basic energy

needs than those who can afford nicer housing.

Older homes and mobile homes often have little or no insulation. Outdated furnaces, hot water heaters and appliances consume much more energy than newer models. Poorly-fitted doors and leaky windows are common in older homes that aren't properly maintained.

And landlords often don't care about these problems, because they don't pay the utility bills: their tenants do. And the tenants usually don't discover that they have moved into an energy hog until a huge utility bill arrives.

Maybe we need the kind of laws for housing that have made buying cars a less chancy enterprise than it used to be.

When we buy a new car these days, there's a big sticker on the window that tells us how many miles per gallon the car gets in town and on the highway.

There's another sticker telling us the base price of the car, and the price of all the extras.

The salesperson hands us a "truth in lending" statement that tells us what the interest rate is.

"Lemon laws" require car dealers to reveal known defects in used cars, and allow us to return a used car that has a defect that didn't show up until we drove the car a day or two.

Perhaps we should develop a similar system for housing that would help apartment hunters determine whether they can afford the utilities in the place they are considering renting. A "truth in renting" law would

require landlords to prominently display the energy rating of the home or apartment, with information about how much it normally costs to heat and cool the home or apartment.

If the home lacks basic energy-efficient features like attic insulation, the landlord would have to reveal it.

A "lemon law" would permit tenants to escape from a lease without penalty if that cozy-looking cottage turns out to be a real energy hog.

Ratings could be periodically updated to reflect upgrades or deterioration of the property.

We probably can't force landlords to upgrade their properties to make them more energy efficient. However, many tenants would choose to avoid renting the places that cost an arm and a leg to heat and cool, *if* they could identify them *before* signing the lease.

And if enough apartment hunters became choosy about avoiding renting those energy hogs, then maybe, just maybe, the landlords will be motivated to do the things required to improve their property's energy rating.

And maybe, just maybe.... we'd have fewer families needing assistance with their utility bills. *--Niki Christopher*

Transitions

Appointed: **David Springe**, to the Executive Committee of the National Association of State Utility Consumer Advocates (NASUCA). Congratulations, Dave!

Farewell: to **Brent Getty**. Our search for a new telecom attorney continues. Good luck, Brent!

CURB Fights Aquila's Collateral Request

CURB strongly objected to a recent request by Aquila (formerly UtiliCorp) to use its Kansas utility assets as collateral for a \$430 million loan.

In Kansas, Aquila operates Aquila Networks-WPK (f/k/a WestPlains Energy Kansas) and Aquila Networks-KGO (f/k/a Kansas Public Service Company and Peoples Natural Gas Company), providing electric and natural gas public utility service to approximately 165,000 retail customers.

Aquila's Kansas assets have a net book value of approximately \$300 million. Aquila argues that \$41.35 million of the \$430 million loan is for peak-day working capital necessary for the Kansas utilities.

Aquila is attempting to obtain approval for collateralizing utility assets in each state in which Aquila operates a public utility. Aquila operates utility properties in Kansas, Missouri, Iowa, Minnesota, Nebraska and Michigan.

In Nebraska and Michigan, states that do not require Commission approval, Aquila's utility assets are already backing the loan.

If Aquila is successful in every other state, Aquila would have over \$2 billion in public utility assets backing a \$430 million dollar loan. Call us crazy, but we think that's a bit excessive.

Not only would this loan be grossly over-collateralized if Aquila is successful, but Aquila is giving no guarantee that the money will be available to the Kansas utility should it be needed.

CURB argued in hearings and in briefs that if Aquila is allowed to pledge the Kansas utility assets, Kansas customers will receive no additional benefit, and would most certainly face additional risks.

CURB urged the Commission to deny Aquila's request. The Commission has yet to issue its ruling.

Aquila is in the process of selling its unregulated assets as it attempts to regain its financial footing and become a utility-only company once again. CURB is monitoring this process.

KCC Docket No. 02-UTCG-701-GIG

SERCC's 2004 Energy Plan Due Out Soon

The State Energy Resources Coordination Council (SERCC) is working on a final draft version of its 2004 State Energy Plan, which should be issued in time for the opening of the legislative session later this month.

The Kansas Geological Survey's Lee Allison, chair of the task force, is circulating the final draft among members for comments and corrections.

It is anticipated that the energy plan will reflect comments and concerns raised

at the Natural Gas Summit in October.

CURB is now on the WEB!



At our new website, you can:

- Learn about CURB's mission
- Meet CURB's Board Members and Staff
- Subscribe to our newsletter, CURBside
- Update your subscriber information
- Read past CURBside issues
- Learn how to save money by weatherizing your home through helpful "how-to" links
- Helpful tips and FAQs

Visit CURB's new website at:

<http://curb.kcc.state.ks.us/>

CURB Agrees to DSL Deal

CURB, along with the Staff of the KCC and Southwestern Bell have reached agreement settling a dispute about Southwestern Bell's deployment of broadband Digital Subscriber Line services (DSL) in Kansas. The Agreement is before the Commission, but has not been approved as of this writing.

Earlier this year CURB and the Commission were notified that Southwestern Bell would not complete a previously agreed-to DSL deployment. The earlier agreement required Southwestern Bell to deploy DSL service "near ubiquitously" in eight Kansas metro areas, and where "technically feasible" in 16 other Kansas cities.

After numerous meetings, a new agreement was reached that required Southwestern Bell to deploy its DSL service to many rural communities in Kansas.

Under the new agreement Southwestern Bell will finish deployment of DSL facilities to 108 remote terminals in the previously agreed-to areas.

In addition, Southwestern Bell will deploy DSL facilities in 81 new central office locations, 67 of which are in rural communities—some of which have no current access to broadband technology.

Under the agreement, every central office in the Southwestern Bell territory serving over 1000 access lines will make DSL service available to its customers by December 31, 2004.

Southwestern Bell agreed to install a digital subscriber line service multiplexer (DSLAM) in each central office. The DSLAM technology allows DSL service to be provided or copper loop to customers within about 3 miles of the central office, or about 16,000 feet. DSL service will not be available outside of the three-mile radius.

The 67 communities covered in the agreement are:

Abilene	Goodland	Neodesha
Anthony	Greensburg	Norton
Atchison	Halstead	Oakley
Atwood	Harper	Oberlin
Belleville	Herington	Paola
Beloit	Holcomb	Phillipsburg
Blue Rapids	Hoxie	Plains
Caney	Humboldt	Plainville
Chanute	Iola	Pratt
Cheney	Kingman	Sabetha
Cherryvale	Kinsley	Scott City
Clay Center	LaCrosse	Sedan
Colby	Lansing	Smith Center
Concordia	Larned	St. Francis
Cottonwood Falls	Lincoln	Stockton
Desoto	Lindsborg	Sublette
Douglass	Lyons	Tonganoxie
Ellsworth	Marion	Washington
Erie	Marysville	Waterville
Eudora	Meade	Wellington
Eureka	Medicine Lodge	Winfield
Fort Scott	Minneapolis	Yates Center

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**CURBSIDE is brought to you by the Staff of
CURB:**

**CONSUMER COUNSEL
DAVID SPRINGE**

**ATTORNEY
NIKI CHRISTOPHER**

**ADMINISTRATIVE STAFF
BETH RUNNEBAUM
AUDREY BOSLEY**

Consumer Counsel's Corner

It is January 2, 2004, and as I type this note, it is 65 degrees and sunny outside. I'm beginning to wonder whether I'm still in Kansas, or whether Kansas may become a new winter vacation paradise. Either way, it's good news for consumers.

If you are faced with high natural gas prices, and we are currently, the best we can do is hope for warm weather so we don't have to use our furnaces as much. So far, winter has been cooperating for the most part. We had some snow in December but overall it was fairly mild. Let's keep our fingers crossed that January and February are just as warm.

Meanwhile, it's that time of year again, when the officials that you have elected to look after your interests gather in Topeka for the 2004 legislative session. I haven't seen any previews of legislation that would impact you as a utility customer, but I'm on the lookout. I suspect issues relating to electric transmission and wind farms will generate some interest downtown, and possibly surcharges on your bill to support them.

We are also getting ready for the FCC-ordered impairment proceedings, which will likely consume many of my waking hours between now and July. The FCC wants facilities-based competition for telephone customers.

At the national level, the FCC determined that competitors are "impaired" if they don't have access to the telephone switching network of the incumbent—in our case, Southwestern Bell and Sprint.

Then, for fun, the FCC told every state that it had nine months to prove the FCC wrong. Can't imagine why we'd want to do that, but that's our task for the next few months. This case could have a long-term impact on telephone competition in Kansas, kind of like natural gas prices!

It is now January 6, 2004, and as I put the finishing touches on this note, it is 7 degrees outside. That's more like the Kansas I know!

--Dave Springe

Don't forget to visit CURB's new website: <http://curb.kcc.state.ks.us/>

CURBSIDE

THE CITIZENS' UTILITY RATEPAYER BOARD (CURB)

1500 S.W. ARROWHEAD RD.

TOPEKA, KANSAS 66604

TELEPHONE: (785) 271-3200

FAX: (785) 271-3116

EMAIL: ecurb@kcc.state.ks.us