



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES MAY 2006

KCC Approves \$2.15 Million Empire Rate Increase, ECA; Fuel Costs Drive Rates Up 33%

On December 9, 2005, the Kansas Corporation Commission approved a stipulation and agreement between the KCC's Staff and Empire District Electric Company that grants the company a \$2.15 million increase, and allowed the company to implement an energy cost adjustment (ECA).

With an ECA, the utility passes the fluctuating costs of fuel for electricity generation directly through to customers, rather than recovering its fuel costs through imbedding in base rates a fixed amount for fuel.

CURB opposed the settlement because base rates would increase over 17%, not including fuel costs, which have been escalating at a rapid pace.

CURB argued that when escalating fuel costs are added to the base rates, customers could see increases of 25% or more.

(See Empire's 33% Increase, at 5)

KCC OKs Westar Rate Increase and Surcharges: Parties Disagree on True Impact

On December 28, 2005, the KCC granted Westar Energy a rate increase, but there is disagreement among the parties about how the Commission's order will impact customer rates.

The KCC also granted Westar's requests for the authority to directly pass through to customers the costs of fuel and the costs of pollution control equipment via line-item surcharges on customer bills.

In granting the order, the Commission estimated that Westar's rates would increase about \$3 million system-wide.

However, CURB believes that the Commission grossly underestimated the impact of its decisions on customer rates.

CURB estimates that when the costs of the various surcharges are factored in, the real impact on customers will be closer to \$53 million at minimum, and may climb as high as \$75 million by spring of

(See Westar Increase, at 2)

'06 Legislature Deregulates Prices of SBC & Sprint Over CURB's Objections

After successfully opposing telephone 2005 price deregulation legislation and a 2005 SBC price deregulation application, CURB opposed 2006 price deregulation legislation sponsored by SBC/AT&T.

The 2006 legislation, **Senate Bill 350**, originally sought to deregulate all telecommunications services with few exceptions.

Fortunately, legislators adopted several amendments proposed by CURB and other conferees that preserve some protections for consumers, including exchange-wide pricing and continued price-cap protection for the initial residential line, and for up to four business lines, even if purchased with vertical services and/or long distance service.

As passed, however, the legislation deregulates prices of many telephone services in the State's three largest exchanges (Topeka, Kansas City, and

(See Deregulation, at 2)

Deregulation (Continued from)

Wichita), as well as in many other exchanges across the state, without requiring any showing that there will be sufficient competition to discipline AT&T's prices.

CURB was particularly disappointed that the KCC failed to oppose the legislation, in spite of its finding last year that price deregulation was not in the public interest when SBC applied for price deregulation in the Kansas City, Topeka, and Wichita exchanges.

In that 2005 decision, all three Commissioners agreed that sufficient competition was not present in these exchanges to discipline prices for basic residential access lines or single line business service.

As passed, the legislation will automatically deregulate prices of most telephone services in exchanges where there are over 75,000 access lines or in exchanges with at least two nonaffiliated carriers, one of which must be a facilities-based carrier.

Unfortunately for Kansas ratepayers, the requirements for price deregulation under this bill have absolutely no bearing on whether sufficient competition to discipline AT&T's prices actually exists in the exchange.

While the amendments proposed by CURB and other conferees provide some protections, such as exchange-wide pricing and continued price-cap protection for the initial residential line and up to four

business lines, there will be no price cap protections for vertical services such as caller ID, call waiting, and many other services that the Commission specifically held should not be price-deregulated in 2005.

The result of this legislation in Kansas may not be increases in prices for all telephone services, but CURB notes that in Oklahoma, AT&T raised prices after similar price deregulation of basic telephone and vertical services. CURB is concerned that the same thing will happen here in Kansas.

While deregulation continues to be touted by AT&T and other large companies as a way to foster competition among companies, which theoretically will keep prices low, it is clear that so-called competition hasn't forced AT&T to keep prices down.

Instead, AT&T is giving lip service to fair competition, while driving up prices we all pay for telephone services.

Westar Increase (Continued from)

next year.

Everyone knows that fuel costs have been increasing at a dramatic pace, which is why it is not surprising that implementing an ECA will have a big impact on customer rates.

Westar presented evidence in the rate case that its annual fuel costs have increased about \$50 million in the past year. This \$50 million increase is not factored into the KCC's estimate that it granted "only" a \$3

million increase, because the KCC order is based on Westar's fuel costs in 2004.

However, now that Westar can begin charging the new rates, the energy charge adjustment will be set at a level to capture Westar's current costs.

Also not reflected in the KCC's rate impact estimate are the costs of new environmental projects, some of which Westar recently completed and others that it plans to complete by May 2007. Surcharges to pay for those projects could boost rates by another \$20 million to \$25 million in the near future.

Lastly, the Commission, in calculating the so-called \$3 million increase, did not take into account the fact that Westar's asset-based off-system sales are shrinking due to growth in Westar's customer base, with corresponding growth in demand for power from its own customers. Westar can only sell power to other utilities when the company is producing more energy than is needed to meet its own customers' demand. Until Westar builds or buys more generation capacity, the amount of power available for off-system sales is expected to continue to decrease.

Off-system sales are expected to decrease even more as planned outages and reduced efficiencies result from installations of pollution control equipment throughout Westar's system over the next ten years.

Why does it matter? Because Westar is required to credit ratepayers with most of

the revenues from asset-based off-system sales. Since rate-payers pay for the plants that produce the excess capacity, the revenue requirement is offset by revenues from off-system sales.

As the sales decrease, those offsets to rates will decrease, as well. Customer rates will increase as a result.

These decreases in off-system sales were not taken into account by the Commission in estimating the impact of its order on customer rates.

Therefore, the Commission's claim that the order would only increase rates by \$3 million customers was grossly misleading. If the Commission intended to only increase rates by \$3 million, the order should have been rewritten to take into account current costs that will be passed through to customers through the surcharges that the Commission approved.

Westar also won a complete reversal of previous Commission policy on the issues of depreciation and on the accounting treatment of savings related to Westar's sale and lease-back of the LaCygne facility.

Most stunning to CURB was the Commission's decision to allow Westar to collect terminal net salvage.

Why were we stunned? Because, two weeks earlier in the Empire District Electric Company rate case, the Commission determined that such costs are too speculative to include in rates, and joined Kansas with Missouri as two of several states that have determined that it is good policy

not to include terminal net salvage in rates, unless the utility has a legal obligation to dismantle and remove a plant down to green field.

Terminal net salvage is the cost of dismantling and removing a retired utility plant down to the bare ground, less the amount recouped by the sale of salvageable materials from the site.

The only legal obligation to dismantle a retired plant that Westar has is to dismantle Wolf Creek, which is required under federal nuclear regulatory law. All utilities with nuclear facilities are required to maintain a fund for their eventual dismantling—regardless of whether they will ever actually be dismantled.

Otherwise, Westar has no plans to dismantle any of its plants. It has not dismantled any of its plants that are already retired, either. They have been put to other uses.

In fact, a recent nationwide study showed that steam-generation plants are rarely dismantled. The study found no evidence whatsoever that any steam plant similar to Westar's many steam plants has been torn down to green field. Most retired plants are converted to other purposes.

To state it in no uncertain terms, there was no evidence in the record whatsoever that any plant in the United States has ever actually incurred terminal net salvage costs!

Yet the KCC decided to allow Westar to collect the speculative costs of future dismantlement of its steam

plants in customer rates—completely reversing the policy set by the KCC just two weeks earlier in the Empire rate case.

This decision alone will cost Westar's customers about \$28 million . . . \$28 million that will be collected annually and that will never be spent for the intended purpose.

Another major decision favorable to Westar was the KCC's approval of a generous 10% return on equity for Westar's shareholders—despite the fact that the shareholders are now protected from volatility in fuel costs, and despite the fact that Westar will receive rapid repayment of capital expenditures by passing through the costs of completed transmission projects, environmental projects, and homeland security measures. Westar no longer must file a rate case before it can include such costs in customer rates.

Yet Westar filed a petition for reconsideration of this decision, claiming that the 10% return on equity is inadequate to satisfy the investment community. CURB, KIC and USD 259 also filed petitions for reconsideration.

The KCC, other than correcting some calculation errors, denied all of the parties' petitions for reconsideration.

Westar decided not to appeal, but CURB, KIC and USD 259 have appealed to the Kansas Court of Appeals.

We'll let you know about the outcome.

(KCC Docket No. 05-WSEE-981-RTS; Kansas Court of Appeals Case Nos. 06-96228, 06-96264 & 06-96251)

CURB Seeks Release of Secret Documents by KCC

In September 2005, CURB filed a petition for judicial review of a KCC decision in the Aquila restructuring docket in Douglas County District Court.

CURB alleged in its petition that the KCC violated the laws and administrative rules against *ex parte* contacts, which are private meetings of decision makers with parties to litigation after a hearing has been held in a matter and before a final order is issued.

Last February, CURB discovered that the Commissioners individually met in three serial meetings with officials of Aquila concerning subjects that were the subject matter of the restructuring docket.

The Commission's own rules call for self-reporting the *ex parte* meetings, making public the substance of the meetings, and making available any materials provided during the meetings to anyone who requests them.

Thus far, however, the Commission has refused to make the materials publicly available, despite repeated motions from CURB and the Large Volume Customers (LVC) group, which was also a party involved in the docket.

The KCC has never denied CURB's and LVC's allegations, but has argued that it kept the materials confidential because they related details concerning a pending sale of Aquila assets

and how the proceeds would be applied to reduce Aquila's debt.

CURB and LVC have countered that the rule that requires release of such materials does not provide an exception for materials that a party deems confidential. Thus far, the KCC has resisted releasing the secret documents, and has yet to comply with the self-reporting requirement.

Although the KCC seems to believe that it is OK to meet privately with utility officials to discuss subjects of open dockets when the specific topic of the meeting is confidential, CURB and LVC strongly disagree.

LVC and CURB have both filed petitions for review of the KCC's refusal to grant relief under the law and KCC administrative regulations prohibiting *ex parte* contacts. As consumer advocates for many customers of the state's utilities, they have both maintained that the rules against *ex parte* contacts are there to protect the public interest in fair and unbiased proceedings.

Obviously, if the rules against *ex parte* contacts aren't enforced, the fairness of KCC proceedings will be in doubt from now on.

In January 2006, the Commission moved for dismissal by alleging that it hadn't been served properly with the notice of CURB's appeal.

CURB denied the allegation and countered with a motion for summary judgment, and also asked to intervene in LVC's appeal.

CURB also asked for expedited rulings, given that it

has been fighting this issue since February 2005.

As Gladstone once said, "Justice delayed is justice denied." CURB believes that it is time that the rules at the KCC are enforced, once and for all. If the Commission won't follow and enforce its own rules to protect the public interest, who will?

CURB has been counting on the District Court to order the KCC to do the right thing, but as of the first of May, the court had yet to issue a decision. We'll let you know how it goes.

(KCC Docket No. 02-UTCG-701-GIG; DG Cty Case Nos. 2005-CV-478 and 2005-CV-463).

Outgoing CURB Board Members Move On

At CURB's January meeting, the CURB board and staff said farewell to outgoing board members Nancy Wilkens of Great Bend, and Francis Thorne of Lansing. Both members opted not to seek renomination to the board.

Ms. Wilkens, who has owned several businesses with her husband in the Great Bend area, has decided to concentrate on activities closer to home. Mr. Thorne will continue to sell real estate in the Leavenworth-Lansing area.

We would like to convey our gratitude for the time and effort Ms. Wilkens and Mr. Thorne devoted to CURB, and to wish them both the best of luck in their future endeavors. *Thanks!*

Empire's 33% Increase (Continued from)

The last time that the KCC granted such a huge percentage increase in utility rates may have been when the Wolf Creek nuclear power plant came on line.

In playing down the size of the huge increase, the KCC claimed that the \$2.15 million increase for Empire's 10,000 Kansas customers was reasonable, and said that since fuel costs fluctuate, it could not estimate what their impact would be on customer bills.

However, CURB was able to estimate what the impact would be: the net overall increase would be over 25% when fuel costs were added to base rates.

Time has proven that CURB's estimate was too conservative: the increases attributable to fuel costs are even larger than we expected.

Empire recently notified customers of the new rates in effect for January and February.

Empire's residential customers who use 600 kilowatts per month will find that under the new rates, their January and February electric bills will be about \$64.61—roughly 33% higher than last year.

Customers who paid \$79.59 for 1200 kilowatts last year will pay about \$109.38 this year—about 37% more than last year.

Unfortunately, it's likely that Empire customers are in for even steeper increases if gas prices keep rising, because

Empire burns more natural gas in the summer to meet demand for power to run air conditioning.

Customers could see bills next summer as much as 50% higher than last year, if the rising trend in natural gas prices continues.

Although Empire has one of the smallest customer bases among the state's electric public utilities, the increase has generated quite a few emails and calls to CURB from Empire's customers who are trying to absorb this increase while struggling with high winter gas bills as well. These customers are expressing outrage at the magnitude of the increases.

The only bright point for consumers in the settlement is that the Commission adopted depreciation rates for Empire that exclude terminal net salvage. Terminal net salvage is the net cost of dismantling and removing retired power plants completely from existing plant sites, less the salvage value of the removed materials.

Utilities often claim that the future cost of dismantlement is a legitimate cost of service that will be incurred, and that current ratepayers should contribute to the cost.

However, since utilities so rarely dismantle steam-powered utility plants, the Commission Staff recommended that the Commission adopt the policy of the Missouri Public Service Commission, which denies recovery of terminal net

salvage, absent the existence of a legal obligation of the utility to dismantle the retired plant.

Currently, only utilities operating nuclear power facilities are under legal obligations to dismantle retired plants.

Additionally, it is customary for wind facilities in-stalled on leased land to be subject to contractual obligations to remove the generation equipment when it is retired.

Retired steam-generation plants are rarely dismantled, however, but are instead usually utilized for other purposes.

A recent study by Snavely King of Washington D.C. revealed that no utility has ever dismantled a steam-powered utility unit down to a "green field." The study concluded that ratepayers are being fleeced for costs that will never be incurred when they are required to fund terminal net salvage.

The Missouri commission agreed with that conclusion and determined that giving money to utilities for such speculative costs is unreasonable.

In adopting Missouri's policy, the Kansas Corporation Commission agreed that only a utility's legal obligation to remove a plant justifies inclusion of terminal net salvage in rates.

The fact that the KCC then reversed itself completely on this issue in the Westar case notwithstanding, at least Empire's customers are currently protected from being forced to pay for plant removals that will never occur.

New Members Welcomed to CURB Board

CURB welcomed new board members Laura McClure and Randy Brown at its January 25, 2006, meeting.

Ms. McClure, a former member of the Kansas House of Representatives from Osborne in north-central Kansas, serves on numerous boards and task forces throughout the state. She was appointed to represent the First Congressional District on the board.

Randy Brown, Wichita, currently teaches college journalism and was formerly a newspaper editor with the Wichita Eagle. He was appointed as the At-Large member of the board.

The staff of CURB joins the incumbent board members in welcoming Ms. McClure and Mr. Brown to the board.

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KCPL Wants \$42.2 Million Rate Increase

On January 31, 2006, Kansas City Power & Light (KCPL) filed the first of four planned annual rate cases.

KCPL is requesting the Commission to increase consumer rates by \$42.2 million annually, or about 10.56%.

KCPL is also asking the Commission to build an 11.5% company profit into consumer rates.

The Commission will decide the case in December, so consumers will not see any change in rates until January 2007. CURB is currently evaluating the request and expects to file testimony in August.

The rate cases are part of an agreement reached between the Staff of the Commission and KCPL in Docket No. 04-KCPE-1025-GIE. Under the agreement, KCPL will spend \$1.3 billion over five years to build a new coal-fired power plant and upgrade an existing coal plant at the Iatan site in Missouri.

KCPL will also make pollution control upgrades at existing power plants, build a 100-megawatt wind farm (possibly two), make transmission and distribution upgrades, and institute new programs addressing affordability, energy efficiency and demand response.

Under the agreement, KCPL will be allowed to file a rate

case each year until the coal plant comes on line in 2010.

Each rate case may also include a new controversial "contribution in aid of construction" mechanism, whereby customers will be asked to pay more to help KCPL maintain certain investment-grade metrics during the construction period.

CURB objected to the contribution mechanism and was not a signatory to the agreement with Staff and KCPL.

KCPL serves approximately 235,000 customers in the Kansas City area.

(KCC Docket No. 06-KCPE-828-RTS)

Midwest Energy Seeks \$3.42 Million Increase

On March 24, 2006, Midwest Energy, Inc., filed an application asking the KCC to increase rates on its natural gas system by \$3.42 million annually.

If granted, residential and small commercial consumers on the Midwest system will receive up to a 40% increase in distribution rates. Distribution rates include the non-gas portion of the bill, such as customer charges and volumetric charges. The proposed increase would not affect the PGA portion of the bill, where the costs of natural gas are passed to consumers.

Midwest claims that increased operational costs and

decreasing sales volumes are depriving it of sufficient profits.

According to Midwest, residential usage per customer has declined 2.2% per year since 1999. Similarly, the company says that commercial and industrial usage has declined 4.3% per year per customer, and that irrigation usage has declined 8.9% per year over the same period. It's likely that the declines are the results of customer efforts to conserve energy in the face of record-high natural gas prices.

Midwest is also seeking to institute a "Normalized Volume Rider" (NVR). The NVR is a mechanism aimed at guaranteeing that Midwest receives a set level of revenue from customers each year, regardless of how much gas customers actually use.

CURB does not disagree with the company's contention that the NVR mechanism would help reduce risk to the company, but Midwest is seeking a whopping 13.5% profit from its customers.

CURB is reviewing Midwest's application and anticipates filing testimony sometime in late July.

Midwest's rates were last increased in February 2003. Midwest is a publicly-regulated cooperative that serves approximately 42,000 natural gas customers in central and western Kansas. Midwest also provides electric service to about 46,000 electric customers in Kansas.

(KCC Docket No. 06-MDWG-1027-RTS)

CURB Wins Battle Against GTI Surcharge

In one of the few unequivocal victories for CURB in 2005, the KCC rejected a proposal to allow natural gas utilities to impose a surcharge on customers to pay for research and development conducted by the Gas Technology Institute (GTI).

GTI has been trying to convince state utility commissions to order ratepayers to fund its activities at the state level since FERC discontinued pipeline surcharges in 2004 that supported GTI at the federal level.

FERC discontinued the surcharges after finding that the purported beneficiaries of the research were opposed to mandatory funding of GTI's activities. One reason why GTI lost support at FERC is that GTI has failed to demonstrate that its activities actually produce benefits for those who pay for them.

CURB argued that ratepayers had little or nothing to gain from paying for GTI's research and product development. CURB reasoned that if GTI actually produced good results and good products, those who need them and want them will pay for them. There is no need to force ratepayers to pay for research and development of products that the market won't support.

Fortunately, the Commission agreed with CURB that

GTI should not be supported with mandatory surcharges on customer bills.

It was a small victory for ratepayers, but an important one, because it upheld the principle that ratepayers should only be required to pay for costs of the utility that are related to the cost of service.

(KCC Docket No. 04-GIMG-814-GIG)

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CURB Opposes Sage Surcharge

In March, CURB filed pleadings opposing a "public switched network recovery charge" of \$1.33 per month which was proposed by Sage Telecom in a March 23, 2006, tariff filing.

CURB believes the proposed surcharge is simply a disguised rate increase for providing the same service Sage has been providing to ratepayers all along, which is providing access to the public switched network.

Sage's proposed surcharge is an extension of the ongoing practice of carriers to distort the actual costs and true rates for service provided to ratepayers by separating out ordinary operating costs traditionally included in rates and placing them in surcharges, which are then added on to the rates quoted to ratepayers in advertising. This makes comparison of rates by consumers difficult, if not impossible.

Consumer Counsel David Springe said "It is outrageous that the Commission would allow this type of deceptive surcharge to be approved. It's like buying a car, and having the dealership charge you extra for a steering wheel when you show up to drive the car home. Allowing Sage to call this a 'recovery charge' as opposed to simply calling it a rate increase is deceptive and should be prohibited by the Commission."

The Commission initially granted the tariff without addressing CURB's filing.

Then, on May 1, 2006, the Commission entered an order denying CURB's claims, stating that the concerns raised by CURB would be addressed in a pending generic billing standards docket, KCC Docket No. 06-GIMT-187-GIT.

CURB is considering whether to ask the Commission to reconsider allowing Sage to bill ratepayers for this deceptive surcharge until the Commission rules on the issue in the billing standards docket.

(KCC Docket No. 06-SAGT-1031-TAR)

Legislature Approves New Gas Utility Surcharges

In **Senate Bill 414**, the legislature, at the request of the gas utilities, has decided that consumers should pay a new surcharge to the utilities between rate cases.

Packaged as a "safety" bill, the utilities convinced lawmakers that consumers should have annual rate increases, through a surcharge mechanism between rate cases, to help pay for replacing, repairing or moving the gas company's pipes.

Under the new law, gas utilities can increase rates through annual surcharges for up to five years before they are required to come before the Commission for the traditional rate case review.

During the five years of the surcharge, the bill restricts re-

view of the charges by the KCC to merely confirming the proper calculation of the charge.

CURB fought against this surcharge in the Senate and House Utilities Committees. CURB argued that this bill removes important consumer protections that the rate case process provides. CURB was joined by the Kansas Corporation Commission in testifying against this bill.

The surcharge is designed to allow rates to increase annually, but there is no requirement to pass through any cost decreases that would lower consumer rates, or that would at least offset some of the surcharge increases.

This is one-sided law that favors utility interests. Consumers get absolutely no benefit from this law.

In the Senate Utilities Committee, legislators put a 40-cent per month/per year cap on residential surcharges. Thus, residential consumer surcharges will be capped at \$4.80 for the first year. Then, each year after, the surcharge increase can be no more than \$4.80 per year. The maximum charge allowable per year will rise to \$24 in the fifth year. However, CURB wasn't able to convince legislators to put any cap at all on small business customer surcharges.

The Senate passed this bill by a vote of 24-16. The House passed the bill by a vote of 125-0: not one of your representatives voted against this surcharge.

The Governor signed the bill on April 12, 2006.

Consumer Counsel's Corner

If you ever feel like you just can't catch a break, you'd do well to remember the winter of 2005-06. We knew we were facing record high natural gas prices, so we spent the fall months here at the CURB offices reaching out to everyone we could contact to get the word out. We even got the Governor to lend a hand with some public service announcements (see <http://warmhelp.org>.) Winter was coming, and there was going to be a lot of bad news on the heating bills.

The break we caught? January was likely the warmest ever in Kansas. February came close to setting a record, too. And your heating bill, well hopefully it was far smaller than what it would have been with normal January weather. This winter, we got lucky—very lucky.

Unfortunately, the price of natural gas for next winter is still very high in the markets. While I don't know what next winter will bring, I'm certainly not counting on it bringing another record heat wave. We have another year to work on energy conservation in this state. We caught a break with the weather this winter. Let's hope we don't waste the reprieve we got.

You might also be noticing that your electric bills have changed. Look closely if you are a Westar or Empire customer. These two utilities

are now charging their fuel costs directly to customers on the monthly bills. This means your electric bills will become more volatile from month to month.

Westar also now has an increasing block rate, which means that the more electricity you use, the more expensive the rate will be. Westar also has new line-item charges for transmission and for environmental costs.

Bottom line? Energy conservation isn't only for winter!!!

Now...if we could just catch a break on gasoline....

—*Dave Springe*

KCC Approves Sprint/Nextel Spinoff of Local Exchange Carriers

In March, the KCC approved a stipulated settlement that will allow Sprint/Nextel to spinoff its local exchange companies nationwide, including the United local exchange companies here in Kansas.

Commission Staff and CURB had filed testimony opposing the spinoff, based on concerns with the \$7.2 billion in debt imposed on the stand-alone company, now called Embarq, which could impair its ability to provide high-quality service on the more than 124,000 telephone lines in Kansas.

In the stipulated settlement, Sprint/Nextel agreed to a number of conditions required by Staff and CURB, including

promises that the new company will maintain the same rates after the spinoff and imposing specific reporting requirements with regard to the new company's credit ratings, capital expenditures and maintenance expenses.

CURB ultimately agreed not to oppose the stipulated settlement after obtaining several concessions from Sprint which afford consumers additional protections, including promises:

- to make specific investments in DSL deployment in each local exchange in Kansas;
- not to impose any costs of the spinoff transaction on Kansas ratepayers;
- to extend its obligation to provide free in-bound 800 number service to certain schools and county governments for an additional year (through July 1, 2010); and
- not to seek a return to rate-of-return regulation.

(KCC Docket No.06-SCCC-200-TAR)

2006 Session Summary

House Bill 2588 would have amended existing law to require the KCC, in determining prudence of utility expenses, to consider technologies that provide long-term economic, social or other benefits, including environmental benefits and the avoided cost of meeting future regulatory requirements over the life of the facility.

The bill would have also

(See *Session Summary*, at 10)

Session Summary

(Continued from page 9)

required that CURB shall argue in favor of lowest long-term cost over the life of the facility rather than lowest short-term cost.

CURB testified against this bill as unnecessary and restrictive. The bill did not pass out of committee.

House Bill 2589 requires that each state agency acquire a set amount of energy from renewable energy sources (2.5% after 2007, and up to 10% after 2010). The bill also allows utilities to retain 50% of off-system wholesale revenues generated from customer-supported electric generating plants.

CURB made strong arguments in its committee testimony against allowing utilities to retain 50% of wholesale revenues, for two very good reasons: because consumers are paying the costs of operating the generating plants, and because wholesale revenues are currently used to hold down retail rates.

CURB also testified against the renewable energy requirement for state agencies, because the language in the bill made its mandate unclear and unworkable. Fortunately, the bill did not pass out of committee.

House Bill 2590 created the VoIP Enhanced 911 act, requiring providers of telephone services using Voice Over Internet Protocol to contribute to statewide E911 funds. CURB did not testify on this

bill. The bill has been signed by the Governor.

House Bill 2642 attempted to create an energy policy advisory group and provide the group with professional staffing. This bill would have statutorily created a group similar to the current Kansas Energy Council, which was created by executive order.

CURB did not testify on this bill. The bill passed out of committee, but failed to pass a floor vote in the House.

House Bill 2657 required the KCC to allow utilities to collect their authorized returns on investments in energy efficiency. The bill also allowed the collection of authorized returns on investments in pre-paid billing programs into which "high risk" customers could have been placed.

CURB strongly opposed the pre-paid program proposal. CURB generally opposed the language on energy efficiency because it did not require that the utility, prior to collecting the costs from consumers, demonstrate that its investments were cost-effective, or that the investments resulted in energy conservation.

After the bill was amended to better clarify the energy efficiency proposals, CURB withdrew its opposition to this section of the bill, but the committee did not have further hearings on the bill.

House Bill 2842 mandated that electric utilities enter into an unlimited amount of five-year contracts with wind energy providers. After the initial five year period, the bill mandated

that the wind energy be sold on a *pro-rata* basis to surrounding utilities.

CURB opposed this bill as an open-ended mandate for unlimited wind power, without a requirement that the power be economical and needed by the utility. We didn't want utility customers paying for energy that wasn't needed or economic. The bill did not pass out of committee.

House Bill 2844 required electric utilities to pay the cost of meters and facilities when a customer who owns a small generating unit wished to interconnect to the electric utility and sell excess power, what is commonly called "net-metering."

The utility was also required to pay full retail rates to small energy providers.

CURB opposed this bill because the metering costs and cost of the full retail rate paid to the producer would increase other customer's rates. CURB would be supportive of "net-metering" under certain conditions, which the language of this bill did not meet. The bill did not pass out of committee. A similar net-metering bill, **HB 2924**, was introduced, but no hearings were held.

House Substitute for Senate Bill 70 grants certain tax breaks and accounting treatments to landlords that install energy-efficient equipment in rental units.

The bill is an attempt to provide landlords with an incentive to increase the energy efficiency of their rental properties so that renters will benefit from

lower energy costs. The bill is currently being considered by a conference committee.

House Substitute for Senate Bill 303 is an amalgam of several other bills (**HB2900** and **HB2904**) offering various incentives for the building of oil refineries, crude oil and natural gas liquids pipelines, fertilizer plants, cellulosic alcohol plants, nuclear generation facility expansions and integrated coal and coke gasification facilities. The bill is currently in conference committee.

House Bill 2926 would have required the KCC to issue an Request for Proposal (RFP) for an independent transmission company to manage and operate all electric transmission facilities in the state. The bill did not receive a hearing.

House Bill 2834 created the Kansas weatherization fund and Kansas energy efficiency technical assistance fund, and imposed a tax on every kilowatt hour of electricity and every Mcf of natural gas sold in the state.

CURB testified against this bill, as an undefined tax on utility customers with no defined accountability or benefit to those customers. The bill did not pass out of committee.

Senate Bill 463 amended existing law on how notice can be provided to customers regarding Kansas and national do-not-call registration. The Governor signed this bill on March 23, 2006.

Finally, see Page 1 for an article on **Senate Bill 350**.

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