



# CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES MAY 2009

## Westar increases, basic conservation rates are now in effect

Customers of Westar Energy should take note that the new rates approved by the KCC in January of this year are now in effect. Most customers will experience higher electric bills as a result of the \$130 million increase. The average annual residential bill will increase about 11%, exclusive of energy charges and other line-item surcharges.

However, customers who can keep their monthly summer usage under 900kWh will avoid some of the increase. A higher rate will apply to usage over 900kWh during the summer.

This change in rate design was proposed by CURB, which saw the change as a way to (1) provide an affordable initial block of energy to all customers, and (2) encourage conservation in the summer, when the demand for electricity is greatest and the cost of meeting demand is highest.

Customers who are able to reduce their consumption to un-

*(See Westar rates, Page 6)*

## Westar requests \$33.7 million in environmental costs in surcharge

Westar Energy is now seeking to recover \$33.7 million from ratepayers through its Environmental Cost Recovery Rider (ECRR). This line-item surcharge passes along to customers Westar's costs of upgrading its emissions-control equipment at its generation plants. Residential ratepayers will bear about 44% of these costs.

Westar North customers will be hit the hardest: \$25.8 million of the costs were accrued at plants assigned to their service territory. Westar South customers will face a \$7.9 million increase.

The higher costs in the company's North territory are primarily due to major installation projects at Jeffrey Energy Center and the Tecumseh Energy Center.

Westar South customers will take their turn at bearing more of the costs when upgrades at LaCygne Energy Center are placed into rates.

*Docket No. 09-WSEE-737-TAR*

## KCC approves 43% increase for Westar's transmission surcharge; adds \$32 million to rates

On March 6, the KCC approved a 43% increase for Westar Energy's transmission delivery charge (TDC).

The TDC is a line-item surcharge that passes through Westar's transmission costs to its customers.

Westar will be collecting a little over \$104 million a year from customers, which is almost \$32 million more than last year. These amounts reflect increases approved by the Federal Energy Regulatory Commission (FERC), which regulates transmission rates.

Westar stated that the increase amounts to less than a 2% increase in rates overall.

However, on top of the 11% increase in base rates granted by the KCC in January, and proposed increases in the environmental surcharge as well, Westar customers as a whole will be paying over 15% more than last year for electricity.

*KCC Docket No. 09-WSEE-598-TAR*

## Midwest seeks \$204K increase for projects

Midwest Energy has filed an application with the KCC to recover \$204,555 from customers through its Gas Safety and Reliability Surcharge (GSRS).

The surcharge allows natural gas utilities to recover their expenditures on repairs and replacements that are necessary for safety or reliability purposes. Project costs incurred due to government projects such as highway work are also recoverable through the GSRS.

Midwest mistakenly filed for an overall return of 8.49% on its GSRS expenditures, the return set in the rate case before last. The return specified in a rate case settlement agreement approved by the KCC in Midwest's last rate case was 8.2567%. Correcting this error should cut about \$5,000 from the coop's request.

The increase, if granted, will add about 28 cents per month to the bill for each meter in the Midwest system. Midwest Energy is a regulated cooperative in central and western Kansas with a lot of rural customers with multiple meters, so those customers will see a bigger increase.

KCC Staff is currently analyzing the application to ensure that the requested costs are for projects that qualify for recovery under the GSRS. CURB is working with the KCC Staff to keep informed on the progress of its analysis.

The KCC will make its decision after Staff files its report.

*KCC Docket No. 09-MDWG-722-TAR*

## CURB petitions Kansas Supreme Court to review Atmos rate case

By the time this issue goes to press, CURB will have filed a petition for review by the Kansas Supreme Court, the first in many years.

In a memorandum opinion issued on March 6, the Kansas Court of Appeals dismissed CURB's appeal of the KCC decision on rehearing in the Atmos rate case. The dismissal was based on the court's opinion that CURB failed to exhaust its administrative remedies when it filed an appeal of the KCC decision on reconsideration without filing a second petition for reconsideration to protest the dismissal.

CURB disagrees with the court on this issue. The dismissal left CURB in the exact same position it had been in before. CURB was no more aggrieved by the KCC's order on reconsideration than it was by the first order. It was not required to file a second petition under the rules, which provide that a party does not have to keep filing successive petitions if multiple orders do not provide the requested relief.

CURB had petitioned for reconsideration because the KCC approved a settlement that failed to determine a return on

equity (ROE) for Atmos, which is necessary to determine if the settlement in the case resulted in fair and equitable rates.

Additionally, CURB argued that the Gas Safety and Reliability Act provides that a utility applying for a surcharge under the Act must use the return on equity determined in its most recent rate case to calculate the return on the surcharge.

Instead, the KCC approved a provision in Atmos' settlement with Staff that would allow Atmos to use the averaged ROEs of other Kansas natural gas utilities to calculate the return on the GSRS surcharge. CURB argued that the Act does not permit the KCC to approve this method of setting a return on the GSRS surcharge, and that this method violates the principle that rates should be set on the basis of facts in the record, not by reference to the ROEs of other utilities.

Although the company withdrew its GSRS application on reconsideration, the withdrawal does not negate this provision: it will be used in the future, whenever Atmos reapplies for the surcharge. The KCC reiterated its approval of the settlement provision on reconsideration, and dismissed CURB's petition as moot or unripe for decision because Atmos withdrew its GSRS application.

The Court of Appeals ruled that CURB was "aggrieved" by the KCC's dismissal, and thus should have filed another petition for reconsideration with the

KCC before filing its appeal with the Court of Appeals.

CURB will argue that despite the dismissal, nothing had changed: the KCC did not determine Atmos' ROE and left the settlement provision intact. Since the order on reconsideration did not alter any of the decisions to which CURB objected in its first petition, CURB was no more aggrieved by the last order than the first order. It was not required to file a second petition for reconsideration.

CURB wouldn't ordinarily take a procedural argument up to the Supreme Court, but, in an unusual deviation from custom, the Court of Appeals indicated that it was "troubled" by the KCC's decision to approve the settlement provision. If CURB can convince the Supreme Court that CURB properly exhausted its administrative remedies before filing its appeal, CURB has a decent chance to prevail on the merits on remand.

The Supreme Court may, at its discretion, grant or deny review to CURB. If review is granted, the Supreme Court may take as long as it wants to decide the case. It is not subject to the 120-day deadline for decision that governs utility rate cases that are appealed to the Court of Appeals. It could be a long wait for a decision.

*KCC Docket No. 08-ATMG-280-RTS;  
Court of Appeals Opin. No. 101, 452*

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## **CURB teams with AG at consumer summit**

CURB expanded its public outreach efforts when it joined a team of consumer advocates and consumer protection agencies at a consumer summit on March 2.

The "Knowledge is Power" seminar in Topeka presented workshops for the public and consumer professionals on such topics as ID theft, predatory lending, and issues affecting senior citizens. The Attorney General's office organized the event, and invited representatives from several state agencies to conduct the workshops and answer questions from consumers and professionals in attendance.

The AG's office invited CURB to set up an informational booth. We invited the KCC to send their best consumer protection investigator to assist us in answering consumers' questions.

CURB attorney Niki Christopher and KCC investigator Lori Forster shared a booth in the lobby and answered attendees' questions about utility matters. They spent a busy day fielding inquiries about the Cold Weather Rule, level payment plans, obtaining financial assistance with utility bills, and what kinds of health problems make a customer eligible for enhanced protection against disconnection of utility services.

"We answered a lot of questions from senior citizens on fixed incomes," said

Christopher. "A lot of folks are concerned that utilities will become unaffordable if the costs keep going up." She added, "Several of the professionals who stopped by the booth expressed appreciation that there are people like us who are able to explain the rules and can get them the information they need to help their clients."

In summarizing the day, Christopher said that it is always enjoyable to get out of the office and have face-to-face conversations with the people that CURB represents.

"We work really hard for customers year-round, but don't get many opportunities to meet them in person and listen to their stories and help them with their concerns, she said. "We can't fix everything, but sometimes we are able to point them towards assistance or help them understand something about utility matters that they didn't understand before. It's a really satisfying part of our jobs at CURB."

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## **ITC and Prairie Wind reach settlement on qualifications**

The battle between two companies that want to build similar transmission lines in southwest Kansas has settled down a bit. In the offing is a settlement agreement that would dispense with the argument over whether the two companies are qualified to build large transmission lines.

ITC Great Plains and Prairie Wind Transmission have filed a joint motion with several other parties requesting that the KCC approve an agreement that would conclude the first phase of the docket by stipulating that both companies are qualified to build high-voltage transmission systems. CURB is not a signatory to the agreement, but has no concerns about the qualifications of either party.

ITC is a transmission-only utility that is seeking an amendment to its certificate of convenience to build a high-voltage line in southwest Kansas. Its parent company has built several transmission systems for utilities in the upper Midwest.

Prairie Wind was created as a joint venture between Westar Energy and Ameren, and is seeking its first certificate of convenience as a transmission-only utility to build a similar line in southwest Kansas.

Phase 1 of the docket has been a bitter battle between the two companies, each of which accused the other of being unqualified to build the large transmission system they say is

needed to transport wind power from sparsely-populated western Kansas to population centers throughout the region.

Although the parent companies of both ITC and Prairie Wind have been involved in large transmission projects in other parts of the nation, neither of these transmission-only Kansas utilities has ever actually constructed transmission lines. Both maintain, however, that the parent companies will provide the expertise and manpower required to get the job done right.

The companies have been in mediation for several weeks in an effort to temper the battle, and this settlement agreement appears to be a product of the mediation process.

Additionally, the Kansas Electric Transmission Authority (KETA) has been pressuring the parties to settle, and pressuring the KCC to speed up the approval process: this transmission line has been identified by KETA as necessary to upgrade western Kansas transmission to facilitate the construction of more wind plants. The settlement may help shorten the timeline to decision.

However, it's likely that the second phase of the docket will be as rancorous as the first phase, for the reason that most dockets become rancorous: a lot of money is at stake.

If the KCC approves the stipulation that both companies are qualified, the docket will proceed to Phase 2, in which the KCC would determine "which proposal is in the best interest of

the public and will most benefit Kansas and the region."

CURB will continue to urge the Commission to select the most cost-effective proposal.

*KCC Docket Nos. 08-ITC-936-COC  
& 08-PWTE-1022-COC*

## **ITC seeks permit for Spearville-Hays line**

ITC Great Plains has applied for a siting permit to build a high-voltage transmission line from Spearville to Hays.

If the KCC approves the permit, ITC plans to begin construction on the line sometime this summer, and complete it late in 2011.

The project is the first phase of a project proposed by the Kansas Electric Transmission Authority to build a 345kv or 765kv line from Spearville to Axtell, Nebraska.

ITC does not plan to seek a siting permit on the second phase from Hays to Nebraska until the Nebraska end of the project is finalized. Until it is determined where the Nebraska line will approach Kansas, it is not yet known where in Phillips or Smith Counties the Kansas portion of the line will cross the border.

The project will require construction of a new substation in Ellis County near Hays, but current plans call for the Spearville end of the line to terminate at an existing substation.

ITC has sought guidance from the Southwest Power Pool on whether to build the line for a maximum capacity of 345kv,

or whether to design the line for eventual upgrade to 765kv capacity. Unless SPP approves the higher voltage option for cost recovery throughout the SPP service territory, ITC will build the 345kv version.

SPP's most recent comments to the Kansas Electric Transmission Authority in late March indicate that approval of the 765kv option won't be forthcoming. Jay Caspary of SPP told members of KETA that the projected costs of the 765kv line far outweigh the current benefits and that SPP's cost allocation committee has recommended against requiring SPP's entire membership to contribute a share of the costs.

ITC estimates that building from Spearville to Hays for 345kv capacity will cost about \$90 million, including right-of-way costs.

Building for higher voltage would require wider right-of-ways, taller towers, and at least an additional \$142 million.

If the escalating costs of recent transmission projects are indicative of the future, we fully expect that the Spearville to Hays project will end up costing customers a lot more than these estimates. It's becoming all too common when projects are completed to discover that actual final costs exceed the original cost estimates by 20% to 40%.

However, in this docket, the KCC will only consider whether the line is necessary for safe and efficient service, and whether the proposed route for the line is reasonable. Costs will be reviewed when the project is

complete, and will be recovered from customers through transmission delivery surcharges.

*KCC Docket No. 09-ITCE-729-MIS*

### **Westar Energy proposes two new energy efficiency programs for customers**

Westar Energy has requested Commission approval of two new energy-efficiency programs. Westar's requests follow the guidelines outlined in the Commission's two generic energy-efficiency dockets, 08-GIMX-441-GIV and 08-GIMX-442-GIV.

The first of the two programs is an air conditioning cycling program, called "WattSaver." The WattSaver program is intended to help reduce the system peak load and thus defer the need for additional capacity.

The program will accomplish this primarily by cycling (turning on and off) a participant's central air conditioner or other appliances during peak usage times—between June 1 and September 30 each year.

Customers who qualify for Westar's WattSaver program will receive a programmable thermostat (including installation) that can be cycled via paging or radio signals. During peak usage periods, Westar will send signals to the thermostat that will cycle the participants' air conditioners or other appliances off and back on during intermittent periods of time.

By cycling air conditioners during peak usage periods of the summer, Westar hopes to reduce the need for using expensive natural gas to meet demand. Westar projects that the program is capable of reducing peak demand by 60 MW by year five of the program. The proposed program will provide and install 60,000 thermostats and cost just over \$26 million.

The second energy-efficiency program proposed by Westar is a Building Operator Certification Program (BOC).

BOC is a nationally recognized competency-based training and certification program for building operators designed to improve the energy efficiency of commercial and industrial buildings.

Westar, in conjunction with the Midwest Energy Efficiency Alliance (MEEA), will offer building operators employed by commercial and industrial customers of Westar the opportunity to participate and receive certification in the BOC program. Westar estimates that the BOC Program will cost \$832,589 over a five-year period, will certify 238 participants, and will save 11,178,860 kWh of annual energy savings.

Commission decisions on these two programs are expected later this year.

*KCC Docket Nos. 09-WSEE-636-TAR & 09-WSEE-738-MIS*

## Westar seeks true-up of ECA

Westar has requested permission from the KCC to make its annual true-up of its energy charge adjustment (ECA). If the request is granted, for the next year beginning in April, Westar North customers will pay an additional .1813 cents per kilowatt hour, and Westar South customers' ECA will be reduced by .0179 cents per kilowatt hour.

The ECA is intended to allow the company to recover in a separate line-item surcharge its actual costs of producing electricity for customers.

The ECA also is used to credit ratepayers with their share of energy sales that Westar makes to other utilities.

The ECA is adjusted periodically to reflect Westar's forecasted energy costs; they're generally higher in the summer and lower in the winter, because of the higher costs of meeting peak demands, but can also be impacted by changes in fuel prices for transportation, outages, and changes in the prices of commodity fuels.

Once a year, the company applies to adjust the surcharge to reflect the difference between its actual costs and the amount it collected from its customers through the ECA.

The proposed increase for Westar North customers reflects under-recovery of the company's energy costs for that territory in the past year.

Conversely, the proposed decrease for Westar South customers reflects over-recovery of energy costs from those customers.

*KCC Docket No. 09-WSEE-736-ACA*

## Kansas to receive \$94.7 million for energy efficiency and weatherization

The 2009 American Recovery and Reinvestment Act is providing nearly \$8 billion for energy-efficiency efforts nationwide, with hopes to create 100,000 jobs and cut energy bills for families.

It was announced in March that Kansas would receive \$94,725,771 in weatherization and energy-efficiency funding.

\$56,441,771 is earmarked for weatherizing homes, including adding more insulation, sealing leaks and modernizing heating and air conditioning equipment, which will pay for itself many times over.

The Weatherization Assistance Program will allow an average investment of up to \$6,500 per home in energy efficiency upgrades and will be available for families making up to 200% of the federal poverty level—or about \$44,000 a year for a family of four.

In addition to weatherization funding, Kansas is receiving \$38,284,000 for the State Energy Program—dollars which will flow through the State Energy Office.

State Energy Program funding will be available for rebates to consumers for home energy audits or other energy saving improvements; development of renewable energy projects for clean electricity generation and alternative fuels; promotion of Energy Star products; and efficiency upgrades for state and local government buildings.

The plans for how to spend all the money are still in the works; the Energy Office is considering other innovative efforts to help families save money on their energy bills.

## Westar Rates

*(Continued from Page 1)*

der 900kWh per month during the summer months will be impacted by the increase less than those with higher consumption.

We encourage all customers, regardless of their monthly usage, to continue making efforts to use less electricity, particularly on the hottest days. Installing programmable thermostats, replacing old appliances with more efficient appliances and sealing up drafty homes are effective ways to help reduce consumption.

If we can reduce the demand on electric generation plants during the dog days of summer, we can defer the need to build more plants. If we defer building more plants, it will save us all money in the long run.

*KCC Docket No. 08-WSEE-1041-RTS*

## Objections to KCPL's new info results in new schedule, longer comment period

On March 13, 2009, the Commission granted a joint request by the parties to revise the procedural schedule and continue the evidentiary hearing in the KCPL rate case.

The case was scheduled for hearing beginning on March 9, 2009, but the rebuttal testimony filed by KCPL on February 23 resulted in a flurry of motions by CURB, Hospital Intervenors, and Staff.

The motions filed by CURB and the Hospital Intervenors asked the Commission to strike the company's rebuttal testimony on the grounds that it (1) contained estimated and double-counted costs related to the common costs of Iatan Unit 1 and Iatan Unit 2; (2) constituted improper rebuttal testimony; and (3) constituted a material change to the company's application.

Staff's motion sought to limit the company to its actual costs incurred for Iatan Unit 2 and Iatan common costs, rather than the budgeted costs contained in the company's rebuttal testimony.

The Commission heard oral arguments on the various motions on March 3, 2009, and recessed the hearing until the next day to allow the parties to attempt to negotiate a resolution of the disputed issues.

On March 4, 2009, the parties notified the Commission that they had agreed to

revise the procedural schedule to allow the company to file additional testimony on updated actual costs for Iatan Unit 1 and Iatan common costs paid or approved through April 30, 2009.

The parties reserved the right to contest the updated costs and the company agreed it would not increase its overall request above the \$71.6 million rate increase request contained in the company's original application.

The case is now scheduled for hearing on June 22 through July 2, 2009, with a final Commission order to be issued by August 14, 2009.

Staff and CURB are auditing the updated actual costs of Iatan Unit 1 and Iatan common costs provided by KCPL, and will continue to audit these costs through the April 30 deadline for such costs to be paid or approved to be paid.

CURB specifically negotiated an extended deadline for public comment in the revised procedural schedule.

Written comments from KCPL customers and the public in general may be made through June 16, 2009. Comments should reference Docket No. 09-KCPE-246-RTS and be sent to the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Road, Topeka, KS 66604, or you may email comments to the following address:

[public.affairs@kcc.ks.gov](mailto:public.affairs@kcc.ks.gov).

*Docket No. 09-KCPE-246-RTS*

## Staff files report on Energy Independence and Security Act

On December 16, 2008, the KCC opened two new dockets to investigate newly-enacted Public Utility Regulatory Policy Act (PURPA) standards of the Energy Independence and Security Act of 2007 (EISA).

The new EISA standards included requirements for the Commission to consider integrated resource planning, rate design modification to promote energy-efficiency initiatives, consideration of Smart Grid investments and Smart Grid information.

The Commission sought comments on the PURPA standards, asking the parties whether previous actions of both the KCC and the Kansas Legislature had satisfied the requirements of EISA; and if so, whether EISA allowed those actions to be grandfathered in, rather than requiring the KCC to start new proceedings.

CURB filed comments in January 2009. CURB believes that the Commission has already addressed integrated resource planning and rate design modifications to promote energy efficiency initiatives in previous rulings. CURB further argued that grandfathering of previous rulings would be allowed to address the newly-enacted PURPA standards, and that the Commission did not need to re-address these topics.

CURB noted, however, that the Commission has not yet ►

conducted a full investigation into Smart Grid investments.

Staff filed its report to the Commission in March 2009. Staff took a position similar to CURB and many other interveners. It was Staff's recommendation that the Commission should issue an order indicating that the new PURPA standards were thoroughly analyzed in Docket Nos. 08-GIMX-441-GIV and 08-GIMX-442-GIV.

Staff also recognized that the Commission has not adequately investigated all of the issues surrounding the introduction of Smart Grid technologies. In order to meet this PURPA requirement, Staff recommended that the Commission hold a workshop on Smart Grid issues, including potential problems created by Smart Grid investments.

*KCC Docket Nos. 09-GIME-360-GIE  
and 09-GIMG-361-GIG*

## **Westar sued by EPA**

In February, the United States Environmental Protection Agency (EPA) filed a lawsuit in federal court charging Westar Energy with failure to abide by the Clear Air Act.

The Clear Air Act requires utilities to install the most effective technology available for reducing emission pollutants when installing new generation equipment. The EPA suit alleges that modifications Westar made to Jeffrey Energy Center over ten years ago constituted installation of new generation equipment, which would trigger

the requirement to install the "best available technology" (BAT) in pollution control equipment.

The company has maintained that the work done at Jeffrey was simply a modification of existing equipment rather than an installation of new generation equipment. Because simple modifications are not subject to BAT standards, Westar maintains that it has not violated the Clear Air Act.

Westar received notice in January 2004 that EPA believed that the new pollution control equipment installed at JEC did not meet BAT standards. The agency's lawsuit signals the end of almost six years of discussions with Westar concerning the EPA's allegations.

The Kansas Department of Health and Environment also had concerns about Westar's compliance with clean air standards, but reached a settlement with Westar last year that commits the company to reduce CO2 and other emissions to specified levels over the next few years.

Westar is already in the process of installing almost \$500 million worth of more efficient and effective pollution control equipment at JEC and several of its other plants. The company has also stated its intent to spend another \$1 billion on more emissions-reducing equipment over the next five years. The company claims that the new equipment, once installed, will reduce pollutants to levels that will substantially comply with current EPA standards.

Federal lawsuits typically progress at a snail's pace; we'll keep you posted on future developments in the case.

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## **SPP to KETA: 765kv line too costly, members won't pay**

After a couple of years of studying the possibility of building an extra-high voltage transmission line through Kansas, the Southwest Power Pool's Transmission Group has determined that the costs of a 765kv line wouldn't be justified by the benefits, and won't be for a decade or more.

That doesn't necessarily mean it won't be built, but it does mean that SPP is unlikely to approve allocating the costs of a 765kv line to members throughout SPP's footprint. The benefits to other members of SPP simply aren't cost-justified, according to the latest SPP studies.

In a presentation to the Kansas Electric Transmission Authority on March 27, Jay Caspary, chief engineer for SPP, told the KETA members that it will be anywhere from ten to thirty years from now before there will likely be sufficient electric generation facilities in western Kansas to justify such a large line.

Caspary said that SPP's cost/benefit studies of building a balanced portfolio of transmission projects to improve transmission for the entire SPP region clearly show that more 345kv lines in the region would be beneficial, and although a

765kv line might eventually be cost-justified down the line, it isn't now.

KETA members Janice Lee and Chair Carl Holmes also noted that they have been contacted by wind developers who have complained that the costs of connecting wind farms to a 765kv line are prohibitive, and that they would prefer that 345kv lines be built instead. Wind farms must build their own substations to connect to extra-high voltage lines.

Caspary told KETA that SPP's Cost Allocation Working Group would not recommend allocating the incremental costs of the higher-voltage line to all of SPP's members, because the benefits aren't justified by the costs. He said, however, the members would agree to allocate across the SPP region costs of some 345kv lines that have positive benefit/cost ratios.

He said if Kansas wanted to go ahead and build the Kansas-based balanced portfolio projects to 765kv, anyway, transmission users in Kansas would have to foot the bill for the additional \$200 to \$250 million to upgrade the lines to 765kv.

Chair Holmes suggested that building 345kv collector lines in parallel with the 765kv lines along the same right-of-ways would resolve the problems of the wind developers. However, that proposal hasn't been studied by SPP, and would likely be the most expensive proposal of all for Kansans, who would have to pick up the entire bill for the 765kv portion of the line, plus its allocated share of the 345kv portion.

Some of the KETA members expressed interest in building the 345kv line on right-of-ways large enough for eventual transition to 765kv when it is justified, or perhaps building the line to 765kv capacity but running it at 345kv until the upgrade to 765kv is cost-justified.

However, KETA member Earnie Lehman of Midwest Energy said he thought converting the line to 765kv would be much more costly in the long run than building it to 765kv in the first place.

Extra-high voltage lines require wider right-of-ways, taller and wider towers, much more expensive transformers, more monitoring, more intensive operation management, and also require a substation at each connection point with a plant or a lower-voltage line. Lehman said converting from 345kv would require replacing all the transformers, so they might as well build it all for 765kv in the first place.

The fact that Midwest Energy is positioned to benefit more from the most recent SPP balanced portfolio plans than any other utility in the SPP footprint might have something to do with Lehman's enthusiasm for building big. It seems clear, however, that the KETA leadership is determined to find a way to justify building the 765kv lines, regardless of the opinion of the experts that we won't need them for many years.

In this year's legislative session, KETA sought the power to impose rates: if the meas-

ure passes, KETA may be positioning itself to force Kansas ratepayers to pay for a 765kv line that SPP says we don't need.

SPP will have several meetings in April, with the SPP Board meeting at the end of April to decide which projects will be included in the balanced portfolio of projects that are approved for cost allocation across the entire SPP footprint. The portfolio will be approved on the basis of which transmission projects are needed to better serve the region as a whole. Projects that have a low benefit/cost ratio or that only provide benefits to a limited area of the SPP region are unlikely to be included.

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## **Embarq's Intrastate Access Charges Examined**

In May 2008, Sprint filed a petition requesting the Kansas Corporation Commission to conduct a general investigation into the intrastate access rates of the United Companies a/k/a Embarq.

Intrastate access rates are the rates that a telecommunications service provider pays for access to a local exchange carrier's facilities and services in order to provide intrastate interexchange service.

Sprint sought an "immediate" reduction in the intrastate access rates charged by Embarq to be in parity with Embarq's

*(See Embarq charges, page 10)*

## **Embarq charges**

*(Continued from page 9)*

interstate access charges.

In October 2008, the Commission issued an order opening a general investigation into Embarq's intrastate access rates. However, the Commission denied Sprint's request for an "immediate" reduction, noting that there is no mandate for the KCC to arrive at any particular conclusion, and added that the 2008 legislature had denied a similar legislative request by Sprint.

In opening the general investigation into Embarq's intrastate access rates, the Commission listed the following issues to be addressed:

(a) Whether Embarq's access charges should be reduced, keeping in mind the ultimate goals noted by the Commission in the Opening Order with respect to advancing Kansas telecommunications infrastructure and services at low, affordable prices; promoting competition, where doing so serves those goals; keeping local rates affordable; and maintaining universal service.

(b) If Embarq's access charges should be reduced, what level of reduction would be appropriate?

(c) Whether any FCC decision or Commission decision has any bearing on whether and how access reductions should be implemented.

(d) Whether access reductions will affect other rates. This issue includes the effect, if any, that a reduction in intrastate access charges would have on lowering wireless or long

distance rates and the effect, if any, on Embarq's local service rates.

(e) Whether and how the Kansas Universal Service Fund (KUSF) will be affected.

(f) Staff's concerns regarding how any access rate reductions would be flowed through to customers.

(g) Whether and how any lost revenue will be recovered by Embarq.

CURB opposes the reduction in Embarq's intrastate access rates because the proposed reduction will result in higher local rates for Embarq customers and/or higher KUSF assessments to all Kansas telephone customers. Embarq already has the highest residential rates of any Kansas local exchange carrier, and the proposed reduction in its intrastate access rates will result in even higher residential rates.

Further, CURB does not believe the proposed reduction will be passed on to consumers in the form of lower intrastate long distance rates by companies such as Sprint or lower wireless calling plans, which are generally based on nationwide pricing plans.

A procedural schedule was issued in December 2008. The parties have conducted extensive discovery and filed direct testimony in February 2009. Rebuttal and surrebuttal testimony will be filed in April and May, respectively, and hearings will be held on May 18-20, 2009.

*KCC Docket No. 08-GIMT-1023-GIT*

## **Westar rate consolidation proposal considered by KCC**

Westar is asking the Commission to equalize the rates between its North system (KPL) and the South system (KGE). Called "rate parity" by some, the Commission has been moving towards a combined single system rate for each customer class on Westar's system since KP&L merged with KG&E in the early 1990's to form Western Resources, which is now called Westar.

KG&E, which historically served Wichita and the southern areas of Kansas, built the Wolf Creek nuclear power plant in the 1980's. When Wolf Creek was brought online in the late 80's, KG&E customers saw large rate increases to pay for cost overruns on the plant. KP&L, which served the northern areas of the state, built Jeffery Energy Center, a large coal fired power plant. The resulting KP&L rates were considerably lower than KG&E rates.

Since the merger of KP&L and KG&E, the issue of rate parity between the two systems has been debated in almost every rate proceeding. Customers in the southern portion of the system want rates lowered to a level equal to the north, and the northern customers have argued against having to pay for Wolf Creek. The Commission has moved rates closer together over time in pursuit of rate parity, but has not, as yet, ordered a single system rate.

It is time for single system rate? Westar argues that it operates and dispatches plants as a single system. Westar treats the system as a single system for capacity purposes. Maintaining the rate system would be easier with one system than with two, as would some of the accounting.

Conversely, having kept the system separate so far, would customers in the north or south be harmed by combining now? For instance, Wolf Creek is a very attractive plant now with the possibility of carbon regulation, where the north has more coal plants and more carbon cost exposure. The south, if kept separate, will need to acquire peaking power plants, and still faces the expense of environmental upgrades at the coal plants in the southern system. Does this picture change as we look into the future?

Simple back-of-the-envelope calculations suggest residential customers might not see much impact if rates are combined. The north has lower fixed costs, but higher fuel costs. The south has higher fixed costs but lower fuel costs. When you average them all together, the total rates would be nearly the same as they are now: the average residential customer won't see much difference if rates are consolidated. However, back-of-the-envelope calculations are not enough to fully assess the true impact of consolidation, and while residential customers might be neutral, other customer classes may not be.

At this point CURB is still gathering data and has not determined whether it believes a single system rate is appropriate. The Commission will be scheduling public hearings on the issue this summer.

*KCC Docket No. 09-WSEE-641-GIE*

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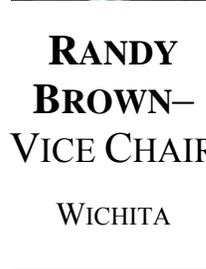
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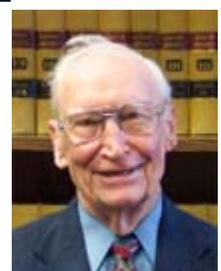
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## Consumer Counsel's



## CORNER

Have I mentioned that your electric rates are going up? Ok, 17% increase on KCPL is old news. And yes, there was that little \$130 million increase on Westar bills you should be feeling about now. And there is the \$65 million Westar increase for transmission and environmental costs. What? You didn't hear about the \$65 million? Well, it doesn't surprise me. No one at the KCC or Westar was going to take the time to tell you about it. Good thing you have CURB on your side. We here at CURB think you are entitled to know when the KCC is going to grant a utility requested increase in your rates.

The real action right now, however, is in Washington, DC. The House Committee on Energy and Commerce has introduced an historic (and epic, at 650 pages) energy bill called the "American Clean Energy and Security Act of 2009". This bill, if passed, will have a huge impact on how energy is generated and transmitted in this country, on how much renewable energy is placed in service, and, of course, on how much your electric bill takes out of your wallet each month. If

you haven't heard about this bill, you should pay attention, this one is important.

Of chief concern to us here at CURB in the new bill is the "global warming" title, that creates a "carbon cap-and-trade" system for regulating greenhouse gasses. Of course, our electric utilities generate lots of carbon from burning coal and natural gas in power plants. The gist of the bill is that it will force our utilities to have "allowances" for the carbon released in generating our electricity. As fewer allowances are allowed over time, utilities will have to find ways, hopefully through better technology or efficiency efforts, to reduce carbon output. That's a good thing.

What the bill does not tell us at this point is: how do the utilities get these allowances? And the way this question gets answered will either result in a responsible path towards a reduced carbon future, or the largest tax increase in American history. Kind of an important piece of the puzzle they left out.

One method would be for the government to allocate allowances for free to the distribution utilities in an amount equal to their current carbon output and then reduce the allowance allocation over time. This would put our utilities on a path to finding ways to reduce carbon over time without unduly impacting consumers. The other method is to auction the allowances. This would require our utilities to buy enough allowances to cover

their carbon output. Of course, in Kansas, the cost of these allowances would most assuredly be passed directly down to you, the consumer.

Let's put a hypothetical price tag on these auctioned allowances. Based on current carbon output in Kansas, if an allowance per ton of CO<sub>2</sub> is priced at \$25 (about mid-range, from the proposals I've seen), this would equate to over \$1 billion per year. Westar customers alone would bear close to \$600 million of this amount. Again ... that's *per year*. Of course, much is up in the air right now on this legislation, but we consumers need to pay close attention to this bill. Note also, there are another 600 pages of ideas I haven't addressed in this column.

There is suspicious piece of rhetoric that keeps popping up with this bill that should raise the hairs on your neck when you hear it. It's the type of language that sounds good, until you think about it further. I've heard and read numerous sources say this bill will "make renewable energy competitive". That's code for: "this bill will make everything else much more expensive so that renewables will seem more competitive." Remember, you pay for the "everything else," too.

They aren't going to tell you how expensive this is going to be. But then again, that's why you have CURB here....we'll tell you what the others won't.

—Dave Springe

## **SB 284 would create non-profit EE administrator**

CURB worked with AARP to get SB 284 introduced this session. SB 284 will create a non-profit corporation with the sole purpose of helping consumers use less energy and save money on utility bills. This entity would offer a set of energy efficiency and conservation programs in a cost-effective manner to all Kansas consumers statewide.

At this time, there is no centralized agency or location for Kansas utility consumers to find information about energy efficiency or conservation upgrades. While CURB has argued for the creation of this type of agency for several years, the Commission has consistently rejected the concept, instead relying on the utilities to provide efficiency programs to their customers.

Utilities make profits by selling more energy, not less, and therefore have little incentive to help customers use less of their product. If asked to encourage conservation, most utilities want customers to continue to protect shareholder profits. An independent entity that doesn't rely on energy sales does not have this conflict of interest.

Independent energy efficiency agencies have been used successfully in several other states, including Vermont, Oregon, New York, Wisconsin, Maine, New Jersey and Delaware.

The Senate Utilities Committee held hearings on the bill on March 11, 2009. CURB and AARP supported the bill, and to no one's surprise, the only testimony against the bill came from utilities: Westar and KCPL. A special joint committee on energy is likely to hear further testimony on this bill sometime this summer.

If you are interested in having a place to access information and programs that will help you use less energy and save money on your utility bill—and don't want that place to be your utility—please support this bill by contacting your legislator.

Don't get me wrong: our utilities do a great job of keeping the lights on and the gas flowing. But it doesn't necessarily follow that they should also be in charge of helping us use less of their products.

**Call 211**  
for information  
about obtaining  
assistance with  
utility bills from  
agencies and  
programs  
associated with the  
United Way in  
Kansas.

## **IT'S YOUR TURN!**

*Tell the KCC what you think about ITC's plans to build a high-voltage transmission line from Spearville, Kansas to Axtell, Nebraska*

**PUBLIC  
HEARING**  
Thursday May  
14  
7:00 p.m.

City Auditorium  
417 Main Street  
Lacrosse, Kansas

For those of you who cannot attend the hearing, comments are being accepted by the KCC through June 5, 2009. Comments should refer to:

**KCC Docket No.  
09-ITCE-729-MIS**

**Comments by email:**  
[public.affairs@kcc.ks.gov](mailto:public.affairs@kcc.ks.gov)

**Comments by U.S. mail:**  
Kansas Corporation  
Commission  
Office of Public Affairs and  
Consumer Protection  
1500 SW Arrowhead Road  
Topeka, Kansas 66604

**Comments by toll-free  
call:**  
1-800-662-0027  
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