CURB: THE CITIZENS' UTILITY RATEPAYER BOARD OF THE STATE OF KANSAS

CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES MAY 2010

Energy efficiency programs and decoupling: KGS withdraws its proposal, other utilities seek approval

Empire Electric seeks approval for energy-efficiency programs and requests cost-recovery mechanism

In January, Empire District Electric Company filed an application for Commission approval of a portfolio of energy-efficiency and demand response programs and for approval of a cost-recovery mechanism. This is the first energy-efficiency filing that Empire has made in the state of Kansas. Empire currently offers a similar portfolio of programs in Missouri, Arkansas and Oklahoma.

Empire is requesting approval for five energy-efficiency and demand-response programs. Two of the five programs are directed toward residential customers, while the remaining three are directed at commercial and industrial customers.

The first residential program is a Low-Income Weatherization program which follows

(*See* **Empire EE programs,** ***P.2***)

Kansas Gas Service withdraws application for energy-efficiency programs and full decoupling

On May 13, Kansas Gas Service requested Commission approval to withdraw its application to become a partner utility in the Commission's Efficiency Kansas loan program, approval of a portfolio of energy efficiency and education programs, program cost recovery, and the establishment of a revenue decoupling mechanism to recognize changes in customer consumption.

Kansas Gas Service filed its application in December 2009 and was the first utility in Kansas to apply to be a partner utility for the Efficiency Kansas loan program. Efficiency Kansas is a revolving loan program that is managed through the Commission's State Energy Office. The State Energy Office received over $34 million in funds through the American

(See* KGS withdraws*, P. 3)

Black Hills seeks approval for EE programs, full decoupling, incentives

In March, Black Hills Energy filed an application with the Commission seeking approval of a five-year energy plan that includes a portfolio of energy-efficiency and education programs, program cost recovery, the establishment of a revenue-decoupling mechanism to recognize changes in custommer consumption, and a performance incentive mechanism to allow for the sharing of savings generated by the energy-efficiency programs offered by Black Hills.

Black Hills' five-year energy plan separates energy-efficiency programs into three categories: residential programs, nonresidential programs and special programs.

The first program offered to residential customers is an audit program. This program would provide the customer a free

***(See* Black Hills proposal*, P. 4*)**

Empire EE programs

(Continued from page 1)

the US Department of Energy guidelines. This program would be administered by CAP agencies in Empire's service territory. Empire wants to delay implementation of this program until April 2011, because CAP agencies are currently utilizing federal stimulus monies for such programs, which were accompanied by a mandate to spend them by a certain deadline. Empire would step in after the stimulus money is exhausted.

The second residential program Empire is proposing is a Residential High Efficiency Central Air Conditioner Program. This program is comprised of three parts: (1) rebates for home owners to help offset the expense of installing a high-efficiency central air conditioning system or a high-efficiency heat pump; (2) a $50 rebate to customers for a "tune-up" (annual inspection and maintenance) of their central air conditioning or heat pump system; and (3) an additional $25 rebate for homeowners who elect to have a new programmable setback thermostat installed at the same time as the new cooling system is installed, or when the tune-up of their system is performed.

The proposals for the three commercial and industrial programs differ significantly from the residential programs, and rely heavily on rebates to provide incentives to customers to participate. The Building Operator Certification program is a professional development program that, in partnership with Westar Energy, provides scholarships to building operators to attend training designed to teach them to operate facilities more efficiently and with measurable energy savings. A rebate program will provide rebates to commercial and industrial customers who take qualifying electric-savings measures, such as installing, replacing or retrofitting HVAC systems, motors, lighting, pumps, etc. The Commercial and Industrial Peak Load Reduction Program will pay business customers an incentive for their reduction of energy usage if the businesses agree to curtail usage when peak demand is highest. (Empire will notify these customers in advance of the curtailment). If the business fails to curtail the full amount of energy under its agreement with Empire, the business will be assessed a penalty.

Empire estimates that the first-year budget for this portfolio of energy-efficiency programs will be $129,645, not including an additional $4,110 for program development; the five-year budget is estimated at $817,315.

The first-year recovery for these programs is estimated at $0.00054 kWh each month – about 54 cents a month for a customer using 1,000 kWhs. Empire's proposal is to impose this rate uniformly across all customer classes, even though the budgets for the commercial and industrial programs are 250% larger than for the residential programs.

Empire has also asked the Commission to allow the company to recover revenue lost due to the successful implementation of these energy-efficiency measures. The Lost Revenue Factor will be calculated by estimating the reduction in sales that result from customer participation in these programs. The company would include its estimated losses along with the program costs, and recover them from customers through a separate line-item surcharge. Empire estimates that the first year's recovery for lost revenues will be $0.00004 per kWh each month – about 4 cents a month for a customer using 1,000 kWhs.

Further, Empire requested that the Commission issue an expedited ruling in this filing so that the company can begin offering seasonal air conditioner check-ups before the summer cooling season begins.

As a result of CURB's objection to Empire's request for expedited approval of these programs, the company withdrew its request. CURB also objects to lost revenue recovery mechanisms because they are inconsistent with the Commission's stated policy on recovery of energy efficiency-related costs. It's simply not good regulatory policy to require a customer to pay for the costs of energy-efficiency programs and also require the customer to pay the utility for the revenues it estimates it might have earned if the energy-efficiency programs hadn't been in place. Allowing lost revenue recovery encourages inflated and ill-advised spending by the utility and provides customers with no value whatsoever.

CURB will remain active in this filing, arguing against the company's lost revenue recovery mechanism and helping to ensure that ratepayers pay only for energy-efficiency programs and measures that offer true and firm energy savings.

KCC Docket No. 10-EPDE-497-TAR

KGS withdraws

(Continued from P.1)

Recovery and Reinvestment Act of 2009 to help Kansans make affordable energy-efficiency improvements to their homes. As of today, the only way for consumers to access this federal money for energy-efficiency improvements is to visit a partner bank.

Kansas Gas Service's application also requested Commission approval of a suite of energy-efficiency programs called "Step One". The programs offered rebates to residential consumers who completed a seasonal heating system check-up program, replaced their existing natural gas water heater or natural gas furnace with higher-efficiency units, and replaced an existing electric heating system with a high-efficiency natural gas furnace. Kansas Gas Service also proposed programs that offered rebates to commercial and industrial customers who made efficiency upgrades.

Kansas Gas Service estimated the five-year budget for the Efficiency Kansas program to require $1,729,346. The five-year budget for the Step One programs was estimated at $10,431,463. Kansas Gas estimated, for program cost reimbursement, that residential and general sales customers would have paid an additional $0.32 per month.

All of these energy-efficiency programs, including participation in Efficiency Kansas, were contingent upon the Commission's approval of a revenue normalization adjustment, or decoupling.

Revenue decoupling is simply any rate or recovery mechanism that severs the link between revenue and sales. Without Commission approval of decoupling, Kansas Gas stated that it would not offer any of the proposed energy-efficiency programs.

CURB filed testimony in this case in April 2010. CURB argued that two of Kansas Gas Service's proposed programs, including the Efficiency Kansas program, were not cost-effective and should be denied. The KCC Staff also provided testimony concluding that many of Kansas Gas's programs were not cost-effective and also recommended the Commission deny approval of the programs.

CURB also recommended the Commission deny Kansas Gas Service's request for full decoupling. CURB's position is that decoupling (1) provides a zero-risk guarantee for the utility and (2) decreases a consumer's motivation to make energy-efficiency improvements to their homes or to just use less. CURB also argued that decoupling should only be considered in a full rate case, when CURB and the KCC Staff would have the opportunity to review Kansas Gas Service's complete financials. Staff filed testimony regarding Kansas Gas Service's decoupling mechanism and agreed with CURB that the Commission should grant full decoupling only in conjunction with a full rate case.

With CURB and Staff in agreement that decoupling should not be granted in this application, Kansas Gas Service formally withdrew its application on May 13, 2010. The Commission granted Kansas Gas Service's petition on May 14, 2010.

KCC Docket No. 10-KSGS-421-TAR

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Black Hills proposal

(Continued from P. 1)

home-energy audit. In this program, a certified home-energy auditor will complete a "check-up" of the customer's home, checking insulation levels, air infiltration levels, measuring equipment efficiency and operating condition, as well as providing the homeowner with education about how to change energy-consumption patterns. In addition to the free energy audit, the program will also cover the cost of low-cost measures recommended by the auditor, up to a total value of $300.

The second residential program Black Hills is proposing is a residential space- and water-heating program. In this program, customers can receive rebates for replacing their existing furnaces, boilers, or hot-water heaters with units that have higher efficiency ratings. The rebates range from $30 to $500, with the higher rebates being provided to customers who choose to install units with the highest efficiency ratings.

Another residential program being proposed by Black Hills is a residential retrofit program. This program offers rebates to customers who improve their homes' efficiency by installing insulation and making other thermal envelope improvements. The program offers rebates of up to $750 for a wide range of energy-efficiency measures, including ceiling, wall, and foundation insulation, as well as rebates for caulking and weather-stripping.

The final residential program that Black Hills is proposing is a new construction program. This program will target home builders within Black Hills' Kansas service territory who construct new homes that meet the Energy Star® New Homes standards. Depending on the measures installed by the home builder and the overall efficiency rating of the home, the home builders can receive rebates of up to $5,000 after the new home has been certified as an Energy Star® home.

Black Hills is also proposing a suite of programs that will be offered to commercial and industrial customers. These programs include a small commercial audit program, a commercial prescriptive and custom rebate program, as well as an industrial sector educational program.

The final part of Black Hills'energy-efficiency plan includes programs designed for low-income customers. The first proposal is for a low-income weatherization program. This program will provide local organizations with additional funding to provide weatherization measures for the homes of qualifying low-income and fixed-income customers.

Black Hills is also proposing an affordable-housing program. This program offers increased incentives for energy-efficient technologies and building measures in homes built through non-profit organizations like Habitat for Humanity, Community Housing Initiatives, and Community Development Corporations. Organizations building affordable homes meeting the Energy Star® standards will receive a $1,500 incentive payment to cover the increased cost of high-efficiency equipment. In addition to the $1,500, home builders can receive an additional $100 incentive for installing an Energy Star® rated high-efficiency natural gas clothes dryer.

Black Hills is also proposing a school-based education program to increase energy-effiiency awareness among youth in Black Hills' Kansas service territory. Through this program, students will receive a kit that includes a CFL light bulb, a high-efficiency showerhead, a faucet aerator, and educational workbooks.

Black Hills Energy estimates the first-year budget for its energy-efficiency programs will require $2,492,129. Black Hills estimates that for program cost reimbursement in the first year, residential customers will pay an additional $1.08 per month and nonresidential customers will pay an additional $2.25 per month. Black Hills estimates that the total budget for its five-year energy efficiency plan will require $12.5 million.

Black Hills Energy has also requested Commission approval of a revenue normalization mechanism—i.e., decoupling. Revenue decoupling is simply any rate, or recovery mechanism that severs the link between revenue and sales. Black Hills is proposing a decoupling mechanism based upon average usage per customer. This type of decoupling will allow Black

Hills energy to recover the differences in actual usage per customer when compared to a historical usage per customer.

In two generic dockets in which the Commission established energy-efficiency program and cost-recovery guidelines (*08-GIMX-441-GIV* and *08-GIMX-442-GIV*), CURB argued against implementing decoupling mechanisms. Utilities like Black Hills Energy argued that decoupling allows them to be good stewards, to pursue energy-efficiency initiatives without harming their shareholders' interests. Utilities are, after all, in the business of selling electricity and natural gas. Intentionally decreasing sales would damage revenues and profits, and could be detrimental to a utility's financial interests.

CURB's argument has been that decoupling (1) provides a zero-risk guarantee for the utility and (2) decreases a consumer's motivation to make energy-efficiency improvements or to simply conserve energy by using less of it. If a utility like Black Hills is given approval for a decoupling mechanism, then the utility is guaranteed a specific amount of revenue. For example, if Black Hills customers are actively engaged in energy efficiency and decrease their energy consumption, they will have to pay more to Black Hills Energy to make up for the lost sales. If Black Hills' customers make no energy-efficiency improvements to their homes at all, but choose to lower their thermostats to save money, customers would have to pay more to Black Hills to make up for the decreased sales. With a decoupling mechanism in place like the one Black Hills Energy is proposing, the more energy the consumer saves, the more money they will pay.

In its filing, Black Hills Energy estimated during the first year it would lose $38,921 in sales of natural gas attributable to its energy-efficiency programs. This amount would be recovered from customers through a surcharge that will also provide program cost recovery to the company. In addition to the monthly $1.08 that residential customers will pay for energy-efficiency programs, Black Hills' residential customers would pay an additional $0.0276 per month if the Commission grants Black Hills' request for decoupling.

But guaranteed revenue does not seem to be enough incentive for Black Hills Energy to offer energy-efficiency programs in Kansas. In addition to decoupling, Black Hills has requested Commission approval of a shared net-benefits performance incentive mechanism. The proposal by Black Hills would provide a benefit to shareholders, based upon the net benefit provided solely to residential customers. The incentive would work like this: Black Hills estimates that its energy-efficiency programs will create a net benefit – avoided utility costs and reduction of consumer bills, less the costs required to administer the programs – of $419,000. Black Hills wants the Commission to grant the shareholders a 10% performance incentive payment of $42,000. This means that Black Hills customers will: (1) pay for energy-efficiency programs–whether they participate in them or not, (2) will pay more money to Black Hills Energy if the customer reduces her/her energy usage, for whatever reason, and (3) will pay Black Hills' shareholders an incentive payment for the successful implementation of energy-efficiency programs.

CURB supports cost-effective and affordable energy-efficiency programs. However, CURB cannot ignore the fact that decoupling makes the ratepayer, not the utility, financially responsible for all financial, performance, weather and any other possible risk that causes a decrease in energy usage. CURB plans to fight Black Hills' request that ratepayers pay a performance incentive to the utility, on top of the energy-efficiency program costs and possibly decoupling. Black Hills currently offers very similar energy-efficiency programs with specific savings targets in Iowa, but Black Hills does not have a decoupling mechanism nor does it receive performance incentives in Iowa.

CURB will remain active in this docket, arguing against the company's proposed revenue normalization mechanism and its requested performance incentives, to help ensure that ratepayers are required to pay only for the most cost-effective energy efficiency programs.

KCC Docket No. 10-BHCG-639-TAR

Atmos Energy requests $6 million: almost 20% increase for residential, 12% for commercial

In late January, Atmos Energy filed a request with the KCC to increase its rates by $6 million annually. Atmos provides natural gas service to almost 128,000 Kansans in 32 counties.

If the KCC grants the increase, Atmos says that the average residential customer's bill would increase 19%, or about $4.18 per month. Commercial customers would see a 11.6% increase, which is a little over $8 on the average commercial bill.

Atmos cited increased investment in plant and increased operating costs as driving the company's request. The company said that although it recovers some investments in plant through its Gas Safety and Reliability Surcharge, a significant portion of its expenditures on plant aren't recoverable through the surcharge.

Only about a dozen customers at four locations showed up for the public hearing, which was held in Olathe on April 21, with video conference setups at three other locations in Atmos' territory.

CURB has been thoroughly investigating Atmos' application, and we will file our testimony in the case on June 5.

KCC Docket No. 10-ATMG-495-RTS

CURB awaits appointment of new board member to replace Laura McClure

CURB is anticipating the appointment of a new board member to replace Laura McClure, of Osborne, who resigned in January to attend to pressing personal matters. Governor Mark Parkinson must appoint a member who resides within the First Congressional District, which is the largest district in Kansas and comprises all of Kansas west of US Highway 281 and most of central and north-central Kansas, as well.

The board and staff of CURB didn't have a chance to extend their sincere thanks to Laura for her distinguished service to CURB before she left the board. In our effort to correct that omission, we gained an even keener appreciation for what we've lost.

On April 12, we met up with Laura at Riverbend Retreat Bed and Breakfast near Osborne, planning to present her a plaque expressing our appreciation and read her a proclamation from the board. To our chagrin, shortly before the presentation we discovered a typo on the plaque—too late to correct it.

So we gave it to her anyway, with the caveat that we would provide her a corrected plaque at a later date. She laughed and accepted the plaque with grace and good humor, and insisted that we "not spend a dime of ratepayers' money to have it fixed".

So Ms. Laura McClure of Osborne, Kansas is now the proud owner of a plaque that thanks "him" for "his" service to the ratepayers of Kansas.

Laura's generosity of spirit and good humor are just a couple of the many reasons why we'll miss her. We wish her the best of luck with her current endeavors, which include creating the delicious breakfasts that Riverbend Retreat provides its guests and promoting bicycling tours in the Blue Hills of north-central Kansas.

The governor has quite a task ahead in finding a successor of her caliber to represent the First District on the CURB board. We sincerely hope he succeeds.

CURBside is brought to you by the Staff of CURB:

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Settlement would cut Empire increase 46%

On May 12, 2010, representatives of Empire District Electric Company, the Staff of the Kansas Corporation Commission and the Citizens' Utility Ratepayer Board (CURB) argued their case for a settlement agreement that, if approved by the KCC, will cut Empire's requested base rate increase to its Kansas customers by 46%.

Empire had originally requested an increase to base rates of $5.2 million—an increase of 40% (see **Packed house objects to Empire's proposed increase—twice**, following this article). The settlement will allow Empire to raise rates by $2.79 million, which is an increase of about 21%. Additionally, Empire will be allowed to defer operation and maintenance costs it incurs during the pre-operational phase of two new coal plants under construction that are slated to begin generating by the end of the year. The costs of consumables that are used in environmental equipment will be removed from base rates and recovered instead through the energy charge adjustment.

With the deferred costs, the actual increase will be higher, but will be recovered over several years, and won't be placed into rates until Empire files a follow-up rate case after the plants are in service, which is anticipated to be within the next year to eighteen months. Additionally, the parties anticipate that the KCC will order a complete overhaul of the company's rate design in the next case to encourage conservation and energy-efficiency by redesigning rates to allocate the high costs of meeting demand to the customers who contribute most to those costs.

For now, more modest changes were made to Empire's rate schedules. Customer charges were increased by $3.00 for residential customers. Residential non-heating customers who keep their consumption under 1500 kWh a month will see smaller increases, and the discount for consumers who heat with electricity has been scaled back. Small commercial customers will see their customer charges rise by $5.00, but per kWh rates will rise slightly less than 20%, depending on volumes used.

CURB Consumer Counsel David Springe said he was pleased with the settlement. "We all felt pressure to cut as much as we could out of this increase because of the depressed economy in southeast Kansas. Empire's customers were facing a 40% increase. To be able to come to an agreement that cut the increase almost in half was an unexpected relief. The parties worked very hard to make an agreement that we could all live with," he said.

This settlement marks the first time in years—perhaps ever—that CURB was able to reach a settlement with a utility on the revenue requirement that was actually lower than CURB's recommendation. "The concessions we had to make to reach settlement with the company actually result in Empire receiving more than the revenue requirement numbers indicate, but we still believe that being able to defer some of the increase until the next rate case will help Empire's customers adjust to the higher rates," said Springe.

KCC Docket 10-EPDE-314-RTS

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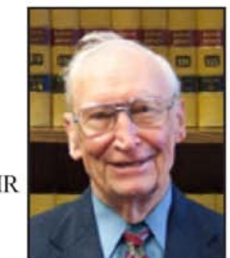

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Packed house objects to Empire's proposed increase—twice

On November 4, 2009, Empire District Electric Company filed a request with the Kansas Corporation Commission for a $5,203,483 increase in the rates of its Kansas electric customers. While the company characterizes this as an increase of about 25% in the total residential bill, the increase to base rates, exclusive of surcharges and fuel costs, is almost 40%.

Empire is a publicly-regulated electric, gas and water utility with about 215,000 customers that operates in southwest Missouri, northeast Oklahoma, northwest Arkansas and southeast Kansas.

In Kansas, there are approximately 8660 residential electric customers (down 1.7% since the company's last rate case), and 1235 commercial electric customers (down 3.1%). However, Kansas residential and comercial customers are currently providing Empire 34% more in total revenues annually than they were providing in 2004.

Empire says the increase is justified because of its recent investments in new generation and pollution control equipment, and costs incurred repairing damages from two major ice storms.

The company plans to come in again for another increase after KCPL's Iatan II plant in Weston, Missouri, is operational. Empire owns 12% (100MW) of this plant's projected output. The current projected date for Iatan II to begin operating is late summer or early fall 2010.

Why does a utility that "offers one of the highest yields of any electric utility equity," (according to Value Line) need such a big increase in rates? CURB engaged the services of a consultant to analyze the company's application for the answer. Her objections to Empire's application were focused on Empire's requested return on equity, which was too high; the company's claims for expenses related to the plants under construction; its accounting for pension costs, and the company's executive compensation plans, which are focused on providing shareholder value rather than providing good value to customers. Our concerns about whether costs have been fairly and accurately allocated among the customers of the four states within Empire's service territory and whether ice storm costs were allocated accurately among those four states were unfounded. We also recommended changes to Empire's rate design, which the company would have liked to keep the same.

On February 9, about 125 of Empire's customers came out on a cold winter night to attend the public hearing on Empire's application. It was almost standing-room only at the Baxter Springs Community Center, despite the fact that two of the local high schools were playing out-of-town basketball games and the City of Galena had scheduled an important city council meeting on the same evening.

The large turnout was all the more impressive considering that Empire forgot to publish a notice in the local newspapers. Empire scrambled to purchase radio spots on a local station, and by sheer coincidence, an article discussing Empire's recent financial disclosures appeared in the Joplin Globe that morning and mentioned the scheduled hearing. Al-though the crowd was made up primarily of residential customers, there were also several small business owners who asked questions and testified. Although a handful of the twenty-five people who testified praised Empire's reliability and customer service, all who testified protested the proposed increase, often on behalf of neighbors and relatives who subsist on small fixed incomes. The superintendent of a local school district testified eloquently about the impact the depressed southeast Kansas economy has had on his community's school children, and expressed his concern about how a 25% electricity increase might further contribute to their difficulties. One teacher told the CURB representative that over a quarter of the children in Cherokee County is poor enough to qualify for free lunches at school. Virtually every set of comments drew applause—and sometimes cheers —from the crowd.

Empire's CEO Bill Gipson, who was in attendance, took some especially sharp barbs from members of the audience, one of whom challenged the worthiness of anyone present in the room to be paid over $1 million per year; another said that Gipson should take a pay cut and "cinch up his belt" the way many residents of south-east Kansas have had to do in recent years. It was clear that the attendees were united in opposition to the increase.

Regrettably, CURB was not informed about Empire's failure to publish the notice in the newspaper until after the hearing was over. Although there is no regulation that requires publication of the notice in local newspapers, it has been long-standing practice of the KCC to require utilities to publish notice of public hearings in rate cases and other important matters in key newspapers in the utility's service territory, as well as include the notice in a bill insert for each customer. Apparently, getting the notice put in the newspapers was an oversight and the company expressed its regrets. Fortunately, at least 125 people got word of the hearing, anyway, and were able to attend. The hastily-arranged radio spots may have helped.

A second hearing held on March 29 yielded a similar turnout and similar comments: the consensus was that Empire didn't deserve a big increase.

The public comment period on the case is now closed. The KCC has until July 2, 2010 to make a decision on the proposed increase.

KCC Docket No. 10-EPDE-314-RTS

CURB seeks clarification of access rebalancing order

On March 10, 2010, the Kansas Corporation Commission ordered Embarq to reduce its intrastate access rates to parity with its interstate access rates. The March 10 Order allows Embarq to recover, or rebalance, its lost intrastate access revenues from the Kansas Universal Service Fund. In other words, Kansas ratepayers will pay Embarq for these lost revenues through increased KUSF charges on your telephone bill.

On March 25, CURB asked the Commission to reconsider portions of its March 10 Order, most importantly the Commission's decision not to order an annual true-up of the projected access reductions subsidy that Embarq will be receiving from the KUSF (i.e., ratepayers) based on prior year access volumes.

CURB pointed out that because Embarq's access volumes are declining, making current KUSF subsidy payments to Embarq based on prior year access volumes will unavoidably result in overpayments by ratepayers—and an unjust windfall to Embarq.

On April 23, 2010, the Commission granted CURB's request to reconsider an annual true-up mechanism, expressly finding that an annual true-up would: (1) allow Embarq to receive the same amount of revenue it would have received had the Commission not ordered any access rate reductions; (2) provide Kansas consumers with protection against paying more into the KUSF than necessary; (3) accomplish revenue- neutrality more accurately; (4) provide better administration and oversight of the KUSF; and (5) provide Embarq with the assurance that if its access volumes increase, Embarq would be entitled to additional funding until costs can actually be determined.

Unfortunately, the implementation language in the Commission's April 23 Order was unclear, requiring CURB to file a second petition for reconsideration on May 10, 2010, to seek clarification that the annual true-up would apply any overpayment in one year as a credit to Embarq's projected KUSF subsidy payment for the following year. Without this type of true-up, Embarq will still be overpaid at the expense of Kansas ratepayers.

Switched access charges are the per-minute rates billed by local exchange carriers (LEC) to interexchange carriers for the use of the LEC's network when the LEC's customer makes or receives a long-distance call. Switched access refers to the use of the public switched telephone network (calls travel through a telephone company switch). These charges help a LEC recover the cost associated with originating or terminating a call.

KCC Docket No. 08-GIMT-1023-GIT

ITC Hays-to-Nebraska 345 kV line goes to hearing

On May 19, 2010, the KCC will hold an evidentiary hearing to consider whether ITC Great Plains' planned 345kV transmission line is necessary and to determine whether the route proposed by the company is reasonable.

The transmission line is the northern half of the so-called KETA project, which is a high-voltage transmission line that will run from near Spearville in southwest Kansas to Axtell, Nebraska that was originally promoted by the Kansas Electric Transmission Authority. The company has already received approvals from the KCC on the Spearville to Hays portion of the project. The second phase was delayed while Nebraska officials decided where they wanted the line to cross the state border.

A public hearing was held in Stockton on April 12. While some landowners whose property will be near the line expressed concern about effects of high-voltage on health and raised viewscape issues, the majority who spoke seemed most concerned about the details of the easement agreement they would be signing with the company. Since easement agreements are contracts that are negotiated with each landowner, there were no clear answers for their concerns. However, the company described in general terms what its usual easement contract contains, and noted that each landowner is free to propose other terms.

The KCC has jurisdiction only to determine the necessity of the line and the reasonableness of the route: cost isn't considered in these proceedings. The Commission has 180 days from the filing of ITC's application to issue an order, which will be due out by June 30, 2010. We fully expect the KCC to approve the line.

CURB knows that the transmission grid in the state needs upgrades, whether more wind farms are built or not. However, we're concerned that Kansas policymakers have been over-sold on the economic benefits to rural communities of high-voltage lines and wind farms, and are quite concerned that the marketability of the power has been overstated. While the Kansas Legislature has determined that economic development is a valid reason for building transmission, we fear that there is too much hope, generated by too much hype, that these lines will save rural Kansas. The fact is, these high-voltage lines will cost well over $1 million per mile. Stressed rural communities may simply be stressed further by high utility rates because they are paying for transmission projects that may not pay off for decades to come—if at all.

We hope our worries are unfounded, for the sake of all of us who pay electric bills in Kansas.

KCC Docket No. 10-ITCE-557-MIS

SPP approves Priority Projects and highway-byway funding; KETA to intervene at FERC to support approval of tariff

Notwithstanding dissent among the ranks at Southwest Power Pool, the SPP board of directors has approved a list of projects, dubbed the Priority Projects, that will receive fast-track approval for construction and that will be funded regionally by SPP's transmission owners. The Priority Project list includes the proposed double-circuit 345kV line from Spearville to Wichita, with an additional connection in Comanche County to a similar line to be built in Oklahoma. These projects comprise part of the so-called "X" plan that has been discussed for over five years as a potential boost for wind farm development in the High Plains.

So-called "highway-byway" funding will allocate the costs of building 300kV and larger lines throughout the SPP footprint, and will allocate the costs of smaller lines to the transmission owners in the zones where the lines will be built. This allocation scheme is designed to facilitate the construction of high-voltage lines intended to transfer power from wind-rich areas of the Great Plains to population centers farther east.

Not all SPP members are happy about the highway-byway plan. The Omaha Public Power District in Nebraska responded to the approval of the plan by announcing its intention to withdraw as a transmission owner from SPP. Since Nebraska utilities signed a five-year agreement to join SPP just last year, it isn't clear whether OPPD can withdraw without a legal battle. Numerous Nebraska Public Power District customers have objected to building another high-voltage transmission line that will connect to the Spearville to Axtell, Nebraska line on the grounds that the line will mostly benefit Kansas wind farms. However, the NPPD decided to approve building the line last week.

SPP has submitted the new highway-byway tariff to the Federal Energy Regulatory Commission for approval. The Kansas Electric Transmission Authority voted recently to intervene in the FERC docket to support SPP's application. While there is strong support in Kansas for these large-scale transmission projects, we predict that there will be further defections from SPP as the costs of these projects become embedded in the rates of utilities that don't perceive the projects as providing benefits to their customers or communities. Unless Congress takes action to federalize the siting process for intrastate transmission projects, regional transmission organizations may find their memberships becoming increasingly Balkanized, with divisions between the states with rich wind resources and those without.

Whatever the outcome, the leadership at SPP is at present no doubt appreciating the painful reality of the apocryphal ancient Chinese curse, "May you live in interesting times." We suspect that they are facing far more interesting times ahead.

Hearing on net metering regs

The Kansas Corporation Commission will conduct a public hearing at 8:30 am, Thursday June 10, 2010, in the First Floor Hearing Room at the office of the KCC, 1500 SW Arrowhead Road, Topeka, KS 66604, to consider proposed rules and regulations concerning the Net Metering and Easy Connection Act, passed by the Kansas legislature in 2009.

The public comment period for the purpose of receiving written public comments on the proposed rules and regulations will continue up to the hearing. All interested parties may submit written comments prior to the hearing to: Matthew A. Spurgin, Litigation Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604, or at m.spurgin@kcc.ks.gov.

All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit the time of any oral presentation. A copy of the proposed regulations may be found on the KCC's website at: http://kcc.ks.gov/pi/proposed_res_regs_061510.pdf .

Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Ruth Moses at 785-271-3165 or the Kansas Relay Center at 1-800-776-3777. Accessible parking and entrance is available at the KCC offices.

A summary of the proposed regulation and its economic impact follows:

ARTICLE 17. Net Metering. K.A.R. 82-17-1, Definitions; K.A.R. 82-17-2, Utility requirements pursuant to the act. K.A.R. 82-17-3, Tariff requirements; K.A.R. 82-17-4, Reporting requirements; K.A.R. 82-17-5, Renewable energy credit program. These regulations are new provisions required by the 2009 Net Metering and Easy Connection Act, K.S.A. 2009 Supp. 66-1263 et seq. The proposed regulations provide guidance for the implementation of net metering and the interconnection of investor-owned utilities customers who have generation facilities operating in parallel with the utility distribution system allowing those customer-generators to exchange energy with the utility company.

KCPL seeks $55 million rate increase

Kansas City Power & Light Company (KCPL) filed a request to increase rates by $55.2 million on December 17, 2009. This is the fourth rate case contemplated under the regulatory plan approved by the KCC in 2005. This rate filing includes costs related to the construction of Iatan 2, an 850 MW coal-fired power plant, which is expected to be placed in service near the end of 2010.

If the company's $55.2 million rate increase request is granted, a residential customer using 838 kWh in the winter months and 1435 kWh in the summer months would receive a rate increase of approximately $11.08 per month. A small general service customer using 1122 kWh in the winter months and 1598 kWh in the summer months would see a rate increase of approximately $14.94 per month.

A public hearing was held in Overland Park on March 28. Twenty-five customers attended and six testified before the Commissioners. The Commission will continue to accept written comments through July 30. Written comments may be submitted by email to public.affairs@kcc.ks.gov and by mail to the Kansas Corporation Commission Office of Public Affairs and Consumer Protection, 1500 Arrowhead Road, Topeka, KS 66604.

Staff, CURB, and other intervenors will file testimony on June 8th. CURB is currently finalizing our review and investigation of the application. We expect to recommend significant reductions to the Company's $55.2 million requested rate increase. The evidentiary hearing is scheduled to begin on August 16.

KCC Docket No. 10-KCPE-415-RTS

COMING UP: Mark your calendar!

Black Hills Public Hearings

The KCC has scheduled three public hearings on **Black Hills Energy's** proposed energy-effficiency programs and its proposal to decouple rates from volumes so that it may recover its revenue requirement regardless of any reductions in natural gas sales.

Specific addresses aren't yet available, but all three hearings will begin at 7:00 p.m.

Watch the KCC website or CURB's website for updates on the addresses for the hearings.

July 6, 2010
Lawrence

July 7, 2010
Wichita

July 8, 2010
Dodge City

Exercise your right to become informed on the issues and express your opinion. Attend a public hearing, ask questions, comment, testify. It's your right as a Kansas ratepayer!

IT'S YOUR TURN: Speak Out!

The KCC has scheduled a public hearing on **Empire District Electric's** proposed energy-effficiency programs and its proposal to recover any revenues lost because of customer reductions in energy use.

Monday, May 24 at 7:00 p.m.
Baxter Springs Community Center
1101 East Avenue
Baxter Springs, Kansas

Question and answer session begins at 7 p.m.

Formal hearing before KCC begins at 8 p.m.

Public hearings give customers the opportunity to ask questions of representatives of the KCC Staff, CURB, and the utility company in an informal session. Then, in a formal hearing, customers may address comments directly to members of the Kansas Corporation Commission.
Exercise your right to speak out by attending. If you cannot attend but wish to comment on Empire's proposals, comments will be accepted by the KCC through June 15 as follows:

Telephone:
1-800-662-0027
Email:
public.affairs@kcc.ks.gov
US Mail:
1500 SW Arrowhead RD
Topeka, KS 66604

Please include the docket number in your comments: 10-EPDE-497-TAR

Consumer Counsel's

CORNER

Death and taxes: life's only guarantees. Or so they say. But Black Hill's Energy is seeking a guarantee from the Commission. Black Hills wants its customers to guarantee that it receives a set level of revenue, regardless of how much natural gas those customers use. If everyone works hard to conserve energy, Black Hills will simply raise your rate to ensure it makes its set revenue level. Pretty neat deal … for Black Hills. I can't think of other businesses that are guaranteed revenue, regardless of sales.

So, what do Black Hills customers get out of this deal? Well, Black Hills wants to spend $1.5 million a year of your money helping customers do energy efficiency. Pretty neat deal … for the customers who get the energy-efficiency products. For the Black Hills customers who don't get the energy efficiency products—well, you get the bill.

Black Hills wants to charge the average residential customer $13 a year and the average business customer $27 per year to cover the cost of the energy-efficiency programs. If you use more than the average, about 70 mcf (700 therms) per year, you will pay even more.

Oh, and then there is that revenue-guarantee adjustment. In regulatory circles it's called "decoupling", as in decoupling revenue from sales. Black Hills says that it has no incentive to help customers use less natural gas. Black Hills doesn't want to sell less natural gas. Black Hills loses money if it sells less natural gas. But, they will do these things if you guarantee them revenue.

When the KCC sets utility rates, it doesn't guarantee the utility will actually receive that exact amount of money. Depending on the weather, the economy, changing customer behavior and more-efficient household products, the utility may actually take in more or less revenue than what was used to set rates. It's a risk of being in the utility business. The KCC builds a profit level into those rates to compensate shareholders for these business risks. It's called the "return on equity", and it's in the ballpark of 10% before taxes are added.

Simple investment theory says lower risk equals lower return. If we guarantee Black Hills' revenues regardless of sales, where is the risk? Naturally, one would expect Black Hills to propose a lower return on equity in rates because of this lower risk. Wrong. Not only did Black Hills not propose to lower your rates, they proposed that you chip in a little extra for shareholders. Black Hills wants to keep some of the savings that customers generate through energy efficiency. They do this by adding in a little extra for themselves when they send you the bill.

So, let's look at this from the perspective of a Black Hills customer who doesn't participate in these programs. Black Hills will take your money and give it to someone else to use for energy efficiency. If that person, because of the energy efficiency, uses less gas, your rates will go up to make sure that Black Hills gets its guaranteed revenues. And your rates will go up a little extra beyond that, just for shareholders. Did I mention that the vast majority of Black Hills customers will be in the "non-participant-but-getting-the-bill" category?

The KCC is looking for public comment on this proposal. Might be worth your time to tell them what you think.

For those of you who aren't customers of Black Hills, don't smile just yet. Kansas Gas Service proposed energy-efficiency programs and decoupling earlier this year. KGS recently withdrew the filing, but it may be back later to try again.

We should also chat about our electric utilities, energy efficiency, lost-revenue mechanisms and shared-saving adders.

But that's for another day …. guaranteed.

—Dave Springe

CURBSIDE
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FAX: (785) 271-3116
EMAIL: ecurb@curb.kansas.gov