



# CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES DEC. 2012

## Commission denies Kansas Gas Service another surcharge

CURB scored a victory for ratepayers last September 13 when the KCC denied Kansas Gas Service permission to add a new surcharge to customer bills.

The surcharge was dubbed the "Infrastructure Replacement Surcharge," and would have allowed KGS to collect \$70 million over an eight-year period for the costs of replacing aging cast-iron mains on the KGS system.

Old cast-iron mains have been targeted for replacement because they eventually develop rust damage and start to leak. They are replaced with new mains made of superior materials that will last much longer.

KGS has been replacing the mains at a rate that would ensure they were all replaced within ten years. KGS proposed the surcharge as a sort of *quid pro quo* for agreeing to complete all of the replacements within eight years, an accelerated timetable that the KCC Staff recommended.

CURB opposed this new surcharge, because KGS could

(See **Surcharge denied**, at P. 2)

## KCPL granted \$33.15 million rate hike

On December 14, 2012, the Commission granted KCPL a \$33.15 million rate increase following a four-day hearing that was held October 1 - 4, 2012. In the order, the Commission awarded KCPL a return on equity (ROE) or "shareholder profit" of 9.5%. The company had requested a 10.3% ROE, compared to CURB's recommendation of 8.5% and Commission Staff's recommendation of 9.2%.

The Commission also adopted CURB's recommendation and rejected the company's request to change the longstanding jurisdictional allocation methodology, which CURB argued would unfairly shift \$10.4 million in capacity-related costs to Kansas ratepayers. The Commission also rejected a proposal from its Staff to modify its longstanding jurisdictional allocation methodology.

Unfortunately, the Commission rejected CURB's conservation-oriented rate design proposals, which included a summer inclining-block rate for res-

(See **KCPL increase**, at P. 4)

## KCC approves increase for KGS

On October 26, 2012, CURB, Commission Staff and KGS filed a joint motion with the Commission requesting approval of a settlement of the company's rate case. In an order issued on December 5, the Commission approved the settlement, which grants a \$28 million rate increase to KGS.

KGS had originally requested an increase of \$50.7 million. It also sought permission to implement a decoupling mechanism that would have ensured that the company would be at no risk to recover its approved revenue requirement.

CURB and Staff had both filed recommendations with the Commission that would have limited the increase to somewhere between \$14 and \$15 million. Staff proposed an alternative decoupling mechanism, and CURB opposed both decoupling proposals.

Having started about \$35 million apart in their positions, no one expected the case to settle. However, during one of the longest negotiations in recent memory, the parties ulti-

(See **KGS increase**, at P. 2)

## KGS increase

(Continued from P. 1)

mately came to a settlement of the contested issues in late October. The settlement proposed a much-reduced increase of \$28 million, and KGS agreed to forego its decoupling proposal. The company agreed to accept Staff's proposed depreciation rates, and all parties agreed to allow KGS to revise its general sales service tariffs to divide commercial customers into three classes—small, large and transport eligible. Also included were other agreements concerning appropriate amortization periods for rate case expense and trackers of pension and post-employment benefit costs.

The parties were unable, however, to come to an agreement on two key issues in the case: the amount of incentive compensation for top executives to be recovered from customers, and the appropriate return on equity for shareholders.

The agreement states that the parties have not agreed on an adjustment to remove the incentive compensation from rates. For purposes of determining whether the settlement would be beneficial to ratepayers, CURB reasoned that it will be difficult, if not impossible, for KGS to recover the full costs of its current incentive compensation plan from customers at the level of rates agreed to in the settlement. Further, from a practical standpoint, the \$22 million reduction in the increase to customer rates more than offsets the \$8 million increase

for incentive compensation costs that the company requested. It's up to the leadership of KGS to figure out how to continue its lavish benefit programs while maintaining safe and reliable service. If it can't be done, then KGS is going to have to make cuts to its executive bonus programs, because by law, safety and reliability must be the company's first priority.

As for failure to agree on the return on equity, it was not a surprise that the parties could not reach a settlement. Determining the appropriate level of profit for shareholders is usually the most contentious issue in every rate case, and it is often not explicitly stated in settlements.

However, KGS utilizes a Gas Safety and Reliability Surcharge between rate cases to recover the capital costs of unavoidable repairs and replacements. Since the company earns a profit on GSRs costs, the KCC is required by the GSRs statute to utilize certain information to determine the carrying charge for GSRs costs in its order when the return is not specified in the rate case. The return on equity is a part of that calculation, but need not be explicitly stated. By stating in the settlement that the carrying charge is "10.6% gross of tax," the parties left it to the mathematically-inclined to back out the number from other known figures. For the rest of us, we can assume that KGS ended up with an after-tax return on equity in the range between 8.65% and 10.08%,

depending on which of the parties' proposed capital structures is plugged into the calculation. Using CURB's proposed capital structure, the indicated return on equity is 9.6%.

Now, for some more good news: although the stated increase will be \$28 million, the *actual* net increase to customers will only be \$10 million. The other \$18 million is already in customer rates, flowing through the GSRs and *ad valorem* surcharges. The \$18 million just gets moved from the surcharges into base rates. The settlement, if approved, would result in an increase of only \$2.00 per month for the average residential customer.

For residential customers, the best news of all if the settlement is approved is that they are not going to bear the entire increase, as KGS had originally proposed.

KGS' class cost-of-service study had indicated that residential customers' rates were being subsidized by commercial and industrial customers. That disparity was the basis for the company's proposal that residential customers not only bear the cost of the entire increase, but also provide revenues to give large customers a decrease in rates.

Needless to say, CURB fought this proposal and eventually, the parties agreed to a rate design that spreads the increase over all customer classes. Although the evidence supported giving the largest increases to residential and small business customers, this

settlement more equitably distributes the increase among all the customer classes.

Consumer Counsel David Springe, in summarizing CURB's take on the settlement, prefaced his remarks by saying, "I want to thank KGS and the Staff of the KCC for the work necessary to come to this agreement. While increasing customer rates is always a difficult choice, KGS has made substantial upgrades to its natural gas distribution system, resulting in increased reliability and safety." Springe noted that because the economic slump has led to shrinking revenues from larger commercial and industrial customers, an increase in rates for households and small businesses was inevitable. "However," he said, "the settlement provides a much better deal for residential customers than the company had proposed." As he described it, "Customers will only see a net increase of \$10 million—a much smaller increase than the \$38.4 million proposed by the company. The monthly customer charge will go up to \$15.35 a month for residential customers, but that's much better than the \$19.00 customer charge that the company wanted."

In discussing utility company profits, Springe said, "We've been arguing for more reasonable profit levels that reflect today's economy, and believe that the settlement represents movement towards our target levels. Knocking almost \$30 million off the increase for residential customers, the denial

of revenue guarantees, an indicated return that is arguably below 10%, and preventing the shift of costs from large businesses to residential customers: these concessions made by the company made this settlement a pretty good deal for our customers." He added, "We argued against funding lucrative bonuses and benefits for the top executives. Although the agreement is silent on the issue, we believe that the level of the concessions we secured more than offset their impact on rates."

Springe also noted that natural gas prices in the market are currently very low. "Even with the increases proposed in the settlement, customer heating bills this winter will likely be more manageable than in years past."

Now that the Commission has approved the increase, customers should expect to see the new rates take effect around the first of the year.

*KCC Docket No. 12-KGSG-835-RTS*

## Stacey's back

Stacey Harden is once again back in her role as CURB's analyst of accounting and economic issues. Stacey returned to CURB after a short (and apparently unsatisfactory) stint managing a municipal budget office.

Needless to say, we are pleased to be spared the ordeal of trying to find someone qualified to replace her. We welcomed her back with open arms, and trust you'll do the same. ♦

## Atmos settlement approved

As reported in the last issue of the CURBside, Atmos Energy and the Commission Staff filed a settlement agreement last summer with the KCC that, if approved, would reduce the rate increase requested by Atmos from \$9.7 million to \$2.8 million. On August 22—a month ahead of the statutory deadline—the KCC issued its order approving the settlement.

CURB was not a signatory to the agreement, but did not actively oppose it. The large reduction in the proposed increase was a benefit to Atmos' customers, as was the agreement of Atmos to forego its proposal for a new decoupling mechanism.

CURB withheld its support of the settlement because the parties could not reach an agreement to explicitly establish the return on equity for calculating the return on surcharges that provide a profit to the company. Generally, however, the other terms reached by Staff and Atmos in the agreement were acceptable to CURB.

The new rate schedules were filed with the Commission on August 28.

*KCC Docket No. 12-ATMG-564-RTS*

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and programs associated  
with the United Way in  
Kansas.

## KCPL increase

*(Continued from P. 1)*

idential customers and a proposal to eliminate 50% of the excessive discounts for small general service space-heating customers.

Consumer Counsel David Springe said in a press release that he is disappointed that the Commission did not adopt a lower ROE. "We are encouraged that the Commission lowered the company's ROE from the current 10% to 9.5% and reduced the revenue increase originally requested by \$30 million. However, consumers continue to struggle during these difficult economic conditions, and a lower ROE would have resulted in a smaller increase on customer bills. However, a \$33 million rate increase is far better than the \$63 million increase requested by KCPL in the application."

Issuance of the order ended a long process that began in April, when KCPL filed its request. CURB's initial filed position recommended a rate increase of \$4.9 million, but was revised later to \$9.579 million to reflect corrections and updates. Staff initially recommended a \$27.495 million rate increase, but ultimately revised its recommended rate increase to \$29.3 million. In response to the filings of CURB and Staff, KCPL reduced its request to \$56.4 million. Although the parties were able to reach a partial settlement on some of the issues, they left the toughest questions for the Commission to answer.

The most significant issue to be decided by the Commission was the appropriate return on equity to award to KCPL. CURB recommended a return on equity of 8.5% and an overall rate of return of 7.58%. Staff recommended a return on equity of 9.2%, with an overall rate of return of 7.85%. The company initially requested a return on equity of 10.4% and an overall rate of return of 8.57%, but reduced its equity claim to 10.3% in its rebuttal testimony. As noted earlier, the Commission ultimately approved an ROE of 9.5%.

Another big issue was the appropriate jurisdictional allocation of costs between KCPL's Missouri operations and its Kansas operations. The company urged the Commission to change the allocation methodology from a 12 coincidental peak (CP) methodology to a 4 CP methodology, a departure from longstanding Commission practice that would have increased by \$10 million the revenues required from Kansas ratepayers. CURB recommended that the Commission stay with the 12 CP methodology that has been used for KCPL for over thirty years and is based on the operational realities of the company. In fact, KCPL had previously supported the 12 CP methodology for the same reasons. Fortunately, for Kansas customers, the Commission agreed with CURB.

CURB also urged the Commission to reject test-year updates suggested by the company and Staff, on the grounds it was contrary to Commission regula-

tions and causes problems with analysis by other parties, particularly when the company does not file a full set of updated schedules.

CURB also recommended that the Commission approve a summer inclining-block rate design for residential customers, a conservation-oriented rate design that CURB has endorsed in several rate cases over the past few years. CURB further recommended that the Commission eliminate 50% of the discounts for small general service space-heating customers, which is also consistent with CURB's conservation-oriented rate design approach.

Although pleased that the Commission adopted several of CURB's recommendations, David Springe noted that this rate increase approved by the Commission is only the most recent in a series of increases granted to KCPL in recent years. "A bill for 1500 kilowatt-hours in July 2013 will be approximately 68% higher than the same bill was in 2007," he said. "What other industry is able to impose such skyrocketing price increases in this economy?"

*KCC Docket No. 12-KCPE-764-RTS*

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## Westar's smart meters prompt waiver of KCC billing standards

The KCC's billing standards require that electric utilities read their customers' electric meters monthly and that beginning-and-end readings shall appear on the bill. At the request of Westar Energy, the KCC has issued a waiver to these standards for bills of customers whose homes are served by so-called "smart" meters.

Electronic smart meters send customer usage data to Westar every fifteen minutes, so monthly visual meter readings are no longer necessary to determine the customer's usage. Westar's smart meters have been installed only in the Lawrence area, but the company anticipates that it will eventually install smart meters throughout its service territory.

The KCC waived the relevant billing standards in an order issued on November 16, 2012. The order permits Westar to provide accurate usage data on customer bills of customers with smart meters without providing the beginning-and-end readings that have been a typical feature of customer bills for decades.

CURB supported granting the waiver, but was pleased to see that the Commission adopted CURB's suggestion for the wording of the waiver. Staff had recommended that the waiver apply "when such data [beginning and end readings] is not readily available." CURB was concerned that the term

"not readily available" was a little broad, and might be interpreted to permit a utility to escape the requirement to provide accurate usage data in circumstances where the utility simply failed to gather the data, having thus rendered the data "not readily available."

CURB requested that the Commission explicitly limit the waiver to billings sent to customers who are served by an electronic meter that is capable of providing accurate usage data for the billing period without a meter reading. We believe the Commission's adoption of our suggestion ensures that electric utilities will continue to provide their customers relevant and accurate usage data on their electric bills, regardless of whether they are served by an old-fashioned analog meter or a new-fangled electronic one.

*KCC Docket 13-WSEE-144-TAR*

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is brought to you by  
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## MKEC seeks rate increase for Lane Scott territory

Mid-Kansas Electric Company LLC (MKEC) filed a request to increase rates by \$510,915, or 13.34%, on August 6, 2012, for customers in the certificated territory serviced by Lane Scott Electric Cooperative (Lane Scott). MKEC, through Lane Scott, provides service to customers in Rush and Ness Counties in western Kansas.

The KCC held a scheduling conference on August 23. At the conference—over CURB's objection—the Commission ordered that it would not schedule a hearing for the public in this rate case. However, the public will be allowed to submit written comments through January 15, 2013. Written comments may be emailed to [public.affairs@kcc.ks.gov](mailto:public.affairs@kcc.ks.gov), or sent by mail to the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Road, Topeka, KS 66604.

CURB recommended a rate increase of only \$48,888 in its testimony that was pre-filed on November 30, 2012.

The Commission Staff filed testimony recommending a rate increase of \$312,310 using an interest expense base Times Interest Earned Ratio (TIER) approach to ratemaking. Staff testimony also included an alternate rate analysis using the rate base, rate of return method-

(See Lane Scott increase, at P. 10)

## Consumer Counsel's



### CORNER

According to my scheduling calendar, my task this morning, December 4, 2012, is to write my annual warning to the readers of the CURBside news that winter is upon us and high heating bills are coming. I've written this warning almost every year for the past decade. Every year I write about high natural gas prices, high heating bills and warn everyone to turn down those thermostats and budget accordingly. In other words, "be ready".

However, it's a sunny 70 degree day here in the Corner. I spent yesterday watering my lawn. My wife wore flip-flops to work today and the dog is spending the day in the yard instead of curled up behind the couch where he likes to nap the day away. Natural gas prices are the lowest they have been in a decade, so heating bills should be moderate this winter and we haven't had any measurable precipitation in a month. Of course, this unseasonably warm weather won't continue forever, and "be ready" remains good advice for the winter, but for today I'm having a little trouble focusing on winter.

I am focused on two upcoming decisions from the Commission. These two decisions will top off the year for us, and hopefully take the sting off that Westar decision we lost earlier in the year. The Commission should issue an order on the Kansas Gas Service rate case settlement soon. I think it's a good settlement—only about \$2.00 a month increase for residential customers—and I hope the Commissioners do, too. But until I see the approval in writing, I am always nervous.

More interesting yet will be the decision on the KCP&L rate case. Since there is no settlement, the Commissioners have to decide all the issues. I'm particularly interested in the return on equity (shareholder profit) decision. Capital costs in the market are low, so this decision will give us guidance on how those low capital costs will affect your rates. There are also questions about cost-allocation models that, once answered, will be important guideposts for future cases. Since this is the first major rate decision to be made by this new combination of Commissioners, it will guide what we do next year. It's kind of like Christmas, this anxious anticipation to see whether we got the great new gadget or the lump of coal. Hopefully, we won't end our year with a lump of coal.

Looking forward, the legislature will convene in January. With the recent elections, there will be lots of new faces downtown. I'll be spending a lot of

time meeting the new legislators and introducing them to the agency and explaining what we try to accomplish on your behalf. I haven't yet heard of any specific bills the utilities may propose, but at a recent hearing of the Joint Energy and Environmental Policy Committee, there were several reports presented on wind energy in Kansas and the impact of the Kansas Renewable Portfolio Standards (RPS). The Kansas RPS sets the percentage of renewable energy the utilities are required to purchase over time, and it may be coming up for revision this session.

There are a few rumblings that the gas companies may reintroduce the "interim rate" bill that we beat back last year. That's the bill that allows a gas utility to propose a rate increase and immediately start charging it to customers. Later, when the KCC decides what the utility is actually entitled to charge, the utility would then refund to customers what it over-collected in the interim. For example, KGS filed to increase residential rates by \$38 million dollars, but settled the case for a \$10 million net increase. KGS would have been overcharging its customers \$28 million over the course of this rate case if the interim rate bill had passed last session. Let's hope the gas companies don't bring this bill back for consideration.

I have to admit, I keep staring out the window, thinking about the past year and what is coming next. This article has

taken longer to write than it should. But it is good, just for a few minutes, to ponder the beauty of a day. It helps keep everything in perspective. I don't know what next year will bring but we'll be here, fighting for you. Be ready, as I like to say.

I just checked the extended weather forecast at one of the major internet services. Right now, it is predicting snow on Christmas. Maybe there is hope yet for a Kansas winter.

From the Board and the staff here at CURB, we wish you a safe and happy holiday season.

—*Dave Springe*

## **Surcharge denied**

*(Continued from P. 1)*

easily recover all of the costs of replacing cast-iron mains via its Gas Safety and Reliability Surcharge. The GSRS is a line-item add-on to customer bills to cover the cost of replacing mains that must be moved for public works projects or must be replaced to comply with safety regulations. This surcharge allows natural gas utilities to collect these costs between rate cases. When the utility comes in for a rate case, the costs in the surcharge are moved into base rates.

Since replacing cast-iron mains is a safety-related measure to protect the public, CURB has no objection to KGS recovering the costs through the GSRS. Our objections to the KGS proposal are founded in part on the fact that there is no need to add yet another line-item surcharge to customer

bills. Although the GSRS statute places caps on how much the company can recover through the surcharge each year, the cast-iron replacement costs, added on top of typical annual GSRS expenditures, are not anticipated to even come close to exceeding the caps.

Another of CURB's objections to the proposed surcharge was the fact that the surcharge would have been based on KGS' *projected* expenditures, not on actual expenditures, and then tried-up annually. The Commission has never approved a forward-looking recovery mechanism, for a variety of good reasons, and CURB sees no reason to alter that policy.

The KCC Staff thought that allowing KGS to implement the new surcharge was a fair trade-off for ensuring that the rate of replacement would be accelerated, but Staff and the company presented no evidence that public safety would be in jeopardy if the replacements took ten years instead of eight years. KGS is obligated by law to provide safe and reliable service, and has a continuing obligation to correct any hazardous conditions that develop in its system. Regardless of whether the company takes eight or ten years to replace all the cast-iron mains, it must immediately repair or replace any pipe that poses a danger to the public. So there's no need to provide incentives to KGS to complete the replacements two years earlier.

There's also no evidence that KGS' finances would be un-

reasonably burdened by the additional costs of the replacement project absent the infusions of cash that an additional surcharge would provide. KGS routinely replaces damaged or broken pipes whenever leaks are detected, and did so for many decades before the legislature created the GSRS to provide recovery of the costs between rate cases. Thus, surcharges are not necessary to ensure that KGS has enough cash on hand to meet its obligations to protect the public safety. Surcharges simply speed up the rate of recovering the costs from customers.

Fortunately, the Commission agrees with CURB that a new surcharge isn't necessary. On September 13, the KCC issued an order denying the proposed surcharge. Stating that it "does not wish to eschew the legislature's preferred mechanism for this situation," the Commission noted that the GSRS is the appropriate mechanism for providing recovery of the costs of the cast-iron replacement program between rate cases, and said there was sufficient evidence to show that the program costs, along with normal GSRS costs, would not exceed the statutory caps on the surcharge.

CURB is pleased with the results of the Commission's order. KGS will receive timely recovery of its expenditures on cast-iron replacement, and customer bills won't be cluttered up with yet another itemized surcharge. That's a win for everyone concerned.

*KCC Docket No. 12-KGSG-721-TAR*

## EE policy review

On November 8, 2012, the Staff of the Commission filed two separate reports regarding energy-efficiency policies. You may remember reading in previous editions of CURBside that the Commission opened a new general investigation docket in November, 2011, to investigate the need for further clarification of its energy-efficiency policies—the same topics that the Commission spent nearly two years investigating in two previous dockets that the Commission opened in 2007.

The two '07 dockets, referred to as the 441 and 442 Dockets, established Commission policy goals for energy-efficiency programs, provided guidelines for utilities to recover their costs, and discussed the availability of performance incentives for utilities that offer energy-efficiency programs to their customers.

The technical reports filed by Staff in November offered no new revelations into how Kansas utilities might effectively offer and operate energy-efficiency programs. Instead, the reports offer the following recommendations: (1) clearly defining the purpose and goals of energy-efficiency initiatives is a key first step in developing sound energy-efficiency policy; and (2) the Commission should continue the policy it adopted in 442 and request that all applications requesting cost recovery for utility-sponsored energy-efficiency programs include benefit-cost results from the

tests that the Commission endorsed in the earlier docket.

CURB is disappointed that after a full year of investigation, the Commission's Staff reports offered no substantive recommendations for clearing up the ambiguities in the Commission's EE policy that it adopted in 2008—ambiguities that clearly have hampered progress toward the overarching goal of developing policies that improve customer access to utility-sponsored EE programs. That said, CURB does not disagree with Staff's general recommendations. Adopting clear goals is wise policy and we agree with Staff that utilities should provide proof that programs pass benefit-cost tests before the Commission approves recovery of the costs from customers. However, the basic questions about the Commission's EE policies are still unanswered.

For example, here's a short list of specific questions that the Commission needs to answer to resolve the ambiguities in its EE policy:

**WHO?** Who are the intended beneficiaries of energy-efficiency programs? In other words, who should receive the benefits? Current consumers? Utilities? Future consumers?

**WHAT?** What types of energy-efficiency programs offer consumers in Kansas the most cost-effective energy savings?

**HOW?** How should the Commission define and measure the benefits and savings of energy-efficiency programs? How should we rank their value

to consumers? Should benefits be defined and measured based on the financial impact on consumer's bills, or on reduced demand for energy generation facilities in the future?

**WHY?** Why should utilities be the only providers of energy-efficiency programs? Why aren't other alternatives being considered if the Commission is concerned that utilities aren't providing their customers effective EE programs?

This is by no means a comprehensive list of questions that require answers, but if the Commission simply answered these few questions unambiguously, the KCC's EE policy would provide much clearer guidance to the utilities about what the Commission wants them to do (or not do), and would help ensure that future EE program applications conform to the Commission's expectations and requirements. Clear answers to these questions also would help ensure that fewer applications will be withdrawn because the parties sharply disagree about who the beneficiaries of an EE program should be or whether a program is consistent with the Commission's goals. We have a longer list of questions, but we'll provide more details when CURB and the intervening parties file their responsive comments on December 12, 2012. CURB will continue to be actively involved in this investigation and will report on its progress in future CURBside editions.

## Atmos seeks GSRS

After agreeing to forego its request for a Gas Safety and Reliability Surcharge in its rate case last summer, Atmos Energy has reapplied for a GSRS.

In an application filed with the KCC on November 2, 2012, Atmos requested permission to implement a GSRS. Under the GSRS statute, Atmos is limited to adding no more than 40 cents per month each year to customer bills. The surcharge, if approved, would add 35 cents a month.

Atmos claims GSRS-eligible expenses of \$4.9 million, but the GSRS statute also limits utilities to recovering the lesser of \$1 million or ½ % of the base revenue level approved in its most recent rate case. As a result, Atmos can only recover \$255,000 annually through the GSRS.

Utilities earn a return on the capital costs included in the GSRS. Atmos is requesting an overall rate of return on the surcharge costs of 8.28%. The statute provides that where the company's most recent rate case did not specify a weighted cost of capital, the return on the GSRS return is based on the average of the recommendations on cost of capital made by the company and Commission Staff in Atmos' most recent rate case. Unfortunately, this provision of the GSRS statute results in a higher return on the GSRS than Atmos would likely have received had the settlement in last summer's rate case specified a weighted cost

of capital, or had the Commission made the determination based on the evidence presented in a hearing.

That is precisely the reason why CURB did not support the settlement. When parties settle natural gas utility rate cases without specifying the return, the fallback provision in the GSRS statute kicks in to provide one. Since the fallback provision bases the return on an average between what the utility requested and what the Staff recommended, the return ends up higher than it should be, because utilities always ask for higher returns than the Commission grants. Thus, the fallback provision encourages utilities to inflate their requests. The 10.9% return on equity that Atmos requested in its rate case is a perfect example.

Further, the GSRS revenues have become the most lucrative part of the utility's revenue stream because the profit is guaranteed, while the utility only has a reasonable opportunity to earn a return on base revenues. The legislature intended the GSRS returns to mirror the returns approved by the KCC, but so many rate cases are settled without specifying the rate of return that use of the fallback provision has become the norm rather than the exception.

We believe that the return that Atmos will earn on the GSRS is at least a full percentage point higher than it would have been granted by the Commission based on the evidence presented by all of the parties concerning the cost of

capital and the low interest rates in today's economy.

The GSRS statute says that the Commission must grant Atmos permission to implement a GSRS so long as its application meets the various requirements of the statute. And because Atmos has requested a return based on the statutory fallback provision, CURB will have no legal basis for arguing on behalf of customers for a lower rate of return.

The GSRS legislation, enacted in 2006, has effectively excluded CURB from a big part of the ratemaking process. Utilities are recovering millions of dollars in GSRS revenues with minimal, accelerated review and at higher, guaranteed rates of return. Too bad that legislators didn't take CURB's word for it that the GSRS was designed to be a cash cow for utilities.

*KCC Docket No. 13-ATMG-325-RTS*

## Lane Scott increase

*(Continued from P. 5)*

used by Lane Scott, with a resulting rate increase of \$31,333, which Staff opined would not be sufficient to compensate Lane Scott for its current cost of service.

Cross-answering testimony may be filed by CURB and Staff on December 10, 2012. The company will file rebuttal testimony on December 20, 2012. An evidentiary hearing will be held January 22-23, 2013, and the Commission's order is required to be issued by April 3, 2013.

*KCC Docket No. 12-MKEE-410-RTS*

