



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES JAN. 2014

KCPL seeks \$12.1 million rate hike for La Cygne project

Last month, Kansas City Power & Light filed an application for a \$12.1 million increase in retail rates. This will be an "abbreviated" rate case, which is a rate case filed within one year of the conclusion of a base rate case. Abbreviated cases rely on much of the data and decisions derived from the base rate case, and the utility is usually limited to requesting a recovery of a specified set of costs that have been incurred in the year following the last case. Typically, as is the case here, the costs to be recovered are related to ongoing construction projects that take several years to complete.

For this case, KCPL is allowed to seek recovery of the costs of the environmental upgrade project at the La Cygne generation plant, which KCPL co-owns with Westar Energy.

The rate of return on capital costs will be the same approved in the last rate case, and there will be no changes in rate design. Unless there are some surprises buried in the application, CURB does not expect that there will be major

disagreement over the numbers. We'll let our readers know if anything pops up in our investigation to change our initial assessment of the case.

KCC Docket No. 14-KCPE-272-RTS

Suburban Water settlement approved

On September 19, 2013, the KCC approved a settlement among Suburban Water, KCC Staff, and CURB. Suburban had requested a \$35,050 rate increase to recover increases in the cost of water it purchases from the Kansas City Board of Public Utilities.

The settlement gives Suburban a \$23,628 increase, which will increase the commodity charge for usage above the first 1,000 gallons from \$7.74 per 1,000 gallons to \$8.00 per 1,000 gallons.

The settlement terminates the requirement for Suburban to file monthly compliance reports.

Finally, the settlement requires Suburban to file its groundwater plan with the KCC before September 30, 2013, and to file semi-annual updates to the plan thereafter.

KCC Docket No. 13-SUBW-700-RTS

KCPL to purchase 400 MW from wind farms

Kansas City Power & Light announced on January 8 that it will be doubling the amount of wind power in its energy portfolio by purchasing approximately 400MW of capacity from two wind energy projects that are slated to begin production by early 2016.

One 200MW wind facility will be built near Waverly in Coffey County by EDP Renewables. The other 200MW facility will be built northwest of St. Joseph, Missouri by Element Power. The builders will also operate the plants, with KCPL purchasing the power they produce.

In conjunction with this announcement, KCPL also said that it is filing to expand its energy-efficiency programs to all of its Missouri customers. Apparently Kansas customers will not be included in the expansion.

Rumor has it, though, that KCPL will be proposing some legislation during this session that would make it more lucrative for the company to offer energy-efficiency programs to its Kansas customers.

CURB seeks dismissal of Westar prepay proposal

Westar Energy has filed a proposal to offer an option to customers that would require them to prepay for electric service. The program would only be available to customers whose homes are equipped with automated electronic meters, and who have an email address to receive billing information and reminders.

Prepay customers will not have to provide a deposit. The program would charge customers \$4.00 per month as an additional service fee for being a prepay customer. This, says Westar, will help cover the extra costs that the program will incur. A third-party vendor has been selected to provide email reminders to customers when their prepaid accounts are getting low.

One benefit of the program touted by Westar is that disconnections and reconnections will be cheaper for prepay customers, because their electronic meters allow connections to be cut off and on remotely—but customers who opt for the prepay program must also agree to waive the advance notice that is normally required before being disconnected.

Part of Westar's proposal is to provide a subsistence-level amount of power to customers during the Cold Weather Rule when their accounts have a negative balance. Westar did not explain exactly how the

company will determine how much power each household needs to operate their heating system, the refrigerator and basic lighting—and what will happen if the customer finds it's not enough. CURB is uncertain about how the program will impact customers during the Cold Weather Rule, how it may affect eligibility for LIEAP assistance, and how Westar will report a prepay customer's payment history to credit rating agencies.

It's also not clear to CURB why Westar has chosen to engage a third-party vendor to manage the prepay program, because the customer dashboard and computer system that was installed to handle the new electronic meters is capable of tracking customer usage and providing alerts via email.

The \$4.00 service charge is also problematic: why should customers who pay up front have to pay more than other customers? They are doing the utility a favor by providing an advance payment for service. Further, it is likely that Westar could provide a similar level of customer feedback as the vendor at lower cost.

Altogether, CURB found Westar's application alarmingly short of detail. We tried to negotiate an agreement with the company to flesh out the details with further testimony in the docket, but the company decided it wanted to go forward without providing any additional information on the record.

With all these questions, and Westar unwilling to address

them, CURB took the only action that it believes is prudent: we filed a motion to dismiss Westar's application.

Don't get us wrong: CURB is not necessarily opposed to offering a prepay option to customers, but we want to see all the fine print before we decide. And, apparently the Commission Staff shares CURB's concerns. Staff's response to our motion echoed CURB's questions about the lack of evidence in the application.

KCC Docket No. 14-WSEE-148-TAR

KCC approves Westar rate settlement

On November 21, 2013, the KCC approved a settlement reached between Westar Energy, KCC staff, and the CURB. Westar sought a revenue increase of \$31.7 million, primarily related to actual capital costs incurred to retrofit the La Cygne power plant to comply with Environmental Protection Agency requirements. The settlement gives Westar a \$30,687,487 increase, consistent with CURB's testimony recommending a \$30.6 million increase.

The settlement also substantially reduced the amount of the increase that Westar wanted to allocate to residential and small business customers. Westar had proposed reducing the rates of large commercial and industrial customers, with residential and small business rate-

payers bearing the costs of the reductions as well as all of the increase. Instead, the settlement increases the monthly service charge \$3.00 for residential ratepayers and \$1.00 for small business ratepayers and eliminated the reductions for the large commercial and industrial customers. The new rates went into effect on December 1, 2013.

Consistent with CURB's recommendations, the KCC opted not to consider Westar's proposals for new economic development and low-income bill assistance in this docket.

David Springe, Consumer Counsel for CURB said, "CURB supports exploring additional support for ratepayers struggling with high energy bills, but Westar's proposals were outside the parameters set by the Commission for this abbreviated rate proceeding. We would support opening a new docket to consider Westar's proposal."

KCC Docket No. 13-WSEE-629-RTS

Howison Heights difficulties continue

On December 17, 2013, the Commission scheduled a two day hearing to begin on February 6 in two consolidated dockets addressing issues relating to the Howison Height water utility in Saline County. The consolidated dockets include a rate proceeding and a general investigation into Howison's ability to provide efficient and sufficient service.

In January, the KCC Staff, CURB and Howison will be filing a series of comments on Howison's rate request and its ability to provide efficient and sufficient service.

To CURB's dismay, the Commission also extended through May 31, 2014, the 113% interim rate increase granted to Howison last April. The Commission's rationale was that it didn't think Howison could afford the refunds that would be triggered if rates were returned to levels charged from 1995 through 2013.

The difficulty CURB has with the Commission's rationale is that extending the interim rates will only result in even larger refunds owed to Howison customers if the Commission determines the final increase should be lower than the interim rates. CURB opposed the interim increase because Howison failed to provide substantial competent evidence to support its request.

Recently, Howison filed a motion with the bankruptcy court in Wichita to extend its right to continue to operate the utility for another 180 days, stating that the pending KCC decisions on Howison's rates and operational problems were preventing it from developing a restructuring plan. The KCC has engaged a lawyer to represent the agency in protecting the interests of Howison's 62 customers in the bankruptcy proceeding.

KCC Docket Nos. 13-HHIW-570-RTS and 13-HHIW-460-GIV

Atmos files for \$7 million increase

Atmos Energy, which provides natural gas service to 129,000 customers in Kansas, has filed an application for a \$7 million retail rate increase. Atmos is proposing that all of the increase would be borne by residential customers and schools, and none by commercial customers. The company states that its need for an increase is being driven by significant investment in plant and increased operating costs.

CURB is reviewing the application and will find out when our testimony is due when the KCC approves a procedural schedule.

KCC Docket No. 14-ATMG-320-RTS

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

**CONSUMER COUNSEL
DAVID SPRINGE**

**ATTORNEYS
NIKI CHRISTOPHER
STEVE RARRICK**

**TECHNICAL STAFF
STACEY HARDEN**

**ADMINISTRATIVE
STAFF**

**SHONDA SMITH
DELLA SMITH**

Kansas Gas Service spin-off approved

On December 19, 2013, the KCC approved a settlement reached between ONEOK, Inc. KCC Staff, and CURB that concurred with ONEOK's proposal to separate its natural gas utilities from ONEOK into a stand-alone, publicly-traded company, ONE Gas, Inc.

Kansas Gas Service (KGS) will become a division of ONE Gas, and will continue to be regulated by the KCC. The settlement includes a provision requiring ONE Gas to buy out and refinance about \$1.2 billion of existing ONEOK debt.

Other consumer-friendly provisions of the settlement include:

- ONE Gas won't ask for any increase in basic rates for gas delivery that would take effect before Jan. 1, 2017.

- Customers will receive rebates totaling about \$3.4 million per year for three years. Each customer will get a \$5.34 bill credit in April in 2014, 2015 and 2016. The rebates were negotiated to reflect the new company's projected savings on pensions and related expenses, to compensate customers for their contributions to the transaction costs of the 1997 merger of KGS with Western Resources (now Westar Energy), and to compensate for the loss of synergies that may have resulted from that merger. (Operation costs of the Kansas utility are projected to increase moderately with this separation of the ONEOK's utilities from

the parent company, but will not be reflected in rates any sooner than Jan. 1, 2017.)

- ONE Gas will not seek an increase of its gas safety and reliability surcharge beyond 40 cents per month per year. The surcharge (now 15 cents a month), pays for improvements related to safety and reliability of service, such as replacing aging and leak-prone cast-iron pipes.

- ONE Gas will contribute \$1 million to charities that help low-income people weatherize their homes to reduce energy costs, plus \$200,000 for administrative costs of the program.

- ONE Gas will continue to be required to follow quality of service standards, including the rules on billing, answering customer calls and responding rapidly to leak reports. The settlement sets up a regimen of fines to be imposed by the KCC if the company doesn't meet the standards.

KCC Docket No. 14-KGSG-100-MIS

KCC reverses denial of CURB intervention; approves Westar energy-efficiency rider

On September 17, 2013, the Kansas Corporation Commission reversed its August 15, 2013, order denying CURB's request to participate in a docket filed by Westar to seek recovery of costs associated with Westar's energy efficiency programs. After being allowed to intervene, CURB did not

oppose the energy-efficiency rider proposal, which will decrease the average residential customer bill by \$0.06 per month.

However, CURB noted that Westar has spent \$38.4 million in energy-efficiency and demand-response programs without any type of prudence review or assessment of whether the programs are producing positive benefits. As a result, CURB recommended that the Commission order a prudence review of Westar's energy efficiency and demand response programs.

The Commission agreed with CURB that a prudence review of Westar's energy efficiency and demand response programs should be performed, but determined that additional time is necessary for Commission Staff to fully investigate and develop its evaluation, measurement, and verification processes in another docket.

Staff is tasked with opening a new docket to review Westar's energy efficiency and demand responses once it has developed its evaluation, measurement, and verification processes.

KCC Docket No. 14-WSEE-030-TAR

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

KCC guilty of KOMA violation; seeking new procedures

On November 8, the Shawnee County District Court found the KCC guilty of a violation of the Kansas Open Meetings Act (KOMA).

The court found the KCC's practice of notational voting violated KOMA's requirement that public bodies deliberate and make their decisions in open meetings. The Shawnee County DA prosecuted the violation in response to a complaint filed by CURB in July.

CURB's concerns were raised when the Commission issued an order in a rate case without having made the decision in an open meeting. In response to CURB's inquires, the KCC's attorney responded that the decision had been made through a process called "pink-sheeting," or notational voting. The proposed order was circulated to each of the Commissioners, who marked an attached pink form to indicate their approval or disapproval of the order.

When CURB notified the Commission's top attorney of the KCC's obligation to self-report the KOMA violation, she defended the procedure as a legitimate and longstanding practice used by the Commission when a statutory deadline demanded that the Commission issue an order by a specified date, but scheduling difficulties prevented a quorum of Commissioners from attending an open meeting.

CURB disagreed that this practice is legitimate, and filed complaints with the Shawnee County District Attorney and with the Kansas Attorney General. The Shawnee County DA decided to prosecute.

The KCC later acknowledged that in investigating the allegations, two of the Commissioners had inadvertently violated KOMA when they met to discuss making a minor revision to the order, but the KCC denied that notational voting was a KOMA violation.

The court disagreed concerning both violations. The court declined to find guilty the two Commissioners who admitted violating KOMA by discussing the order privately because they had no intent to violate KOMA. The court did find, however, that notational voting violates KOMA. The Commission itself was fined \$500, but the individual Commissioners were not held liable for the violation.

The prosecution of the KCC for violating KOMA prompted the agency to develop a proposal for new internal procedures that would comply with KOMA. The Commission solicited public comments on the proposed procedures.

The Commission Staff developed the new procedures based on the theory that anytime the Commission is deliberating an order in any case where a hearing governed by the Kansas Administrative Procedures Act has been held, the Commission is performing a "quasi-judicial" function and is exempted from KOMA's re-

quirements to hold an open meeting to deliberate and make decisions about the case. Under this theory, the Commission can deliberate secretly—much in the same way that judges do.

Unfortunately, the proposed procedures, if adopted by the Commission and put into practice, would result in further violations of KOMA. Most of the KCC's function in regulating utilities is legislative in nature. Setting rates and developing public policy are strictly legislative functions, and are not quasi-judicial—even if some of the proceedings have a lot of the trappings of a court hearing.

On January 3, CURB filed comments supporting this view. Kansas City Power & Light, the only other party who filed comments, concurred with CURB's assessment of the Commission's theory and its proposed procedures.

On January 14, the Commission moved to keep the docket open and continue to explore its options rather than adopt the proposed policy. Since the Commission has not yet finalized its procedures, we are hoping that they will be revised in accordance with the recommendations of CURB.

Subscribing to CURBside is easy!

**Call us at
785-271-3200,**

**email us at
ecurb@curb.kansas.gov**

**or visit our website at
<http://curb.kansas.gov/>**

Atmos Energy applies for tariff to share savings of sourcing new pipelines

In November, Atmos Energy applied for approval to add two new components to its Purchased Gas Adjustment (PGA) schedule. Both would allow Atmos to share equally in any savings from reducing upstream gas transportation costs and in any savings resulting from constructing new interconnects with pipelines other than the ones Atmos usually uses to supply gas it has purchased for its customers.

Naturally, CURB has some concerns with making such changes to the PGA. Generally, natural gas costs are passed through the PGA to customers with no profit component included. The costs are passed through to customers directly, with regular adjustments to reflect the actual costs. Allowing a utility to capture profit on a component of gas costs would be a dramatic change in regulatory policy.

Additionally, public utilities have a continuing obligation to operate efficiently and prudently on behalf of its customers; if switching pipelines will create net savings for customers, Atmos should do so as a part of its obligations as a monopoly provider. Customers should not have to provide additional profits to regulated utilities to ensure they take action to locate and develop more cost-efficient ways of reducing the cost of

obtaining natural gas for their customers.

Atmos states that the emergence of shale gas as a significant resource has not only changed market dynamics, but the location of shale gas reserves is shifting the focus away from traditional pipeline pathways to the market. As a result, some of the pipelines that Atmos relies on to serve its customers are raising their rates to make up for the loss in transportation revenues. Atmos believes it may be able to ease its escalating transportation costs by developing alternative transportation sources.

While CURB thinks it is a good idea for Atmos to continually review its upstream costs for opportunities to reduce them, we're not so sure that Atmos should be allowed to collect more money from customers for doing so and pass it through the PGA. PGAs were developed to allow utilities timely recovery of the cost of natural gas, the cost of which has been subject to periods of tremendous volatility. They weren't designed to recover capital costs or to finance strategic contract negotiations.

Atmos will earn a return on building interconnections with new pipelines, so it already has a financial incentive to build necessary infrastructure. And its obligation to be prudent dictates that it should be constantly striving to moderate costs to customers. Perhaps Atmos has been a bit imprudent in relying on a single pipeline for the majority of its Kansas gas supplies. CURB agrees that it is

time for Atmos to start looking for alternative transportation providers, but we're not ready to allow the company to start collecting bonuses for its shareholders through the PGA.

KCC Docket No. 14-ATMG-230-TAR

KCC: a resignation, an appointment, an election

Mark Sievers, chairman of the KCC since May 2011, has announced his intention to resign from the Commission as soon as his replacement is confirmed by the Kansas Senate. Sievers said he wants to spend more time with his family.

On January 8, Governor Brownback appointed Kansas Senator Jay Emler to replace Sievers on the Commission. Emler has been a member of the Senate Utilities committee for many years, and was chairman for several years before Pat Apple assumed the chair.

At an open meeting on January 9, Sievers moved to elect Commissioner Shari Feist Albrecht as chair. He said that the Commission will soon be preparing its annual report to the legislature and the process requires some continuity from beginning to end. Since he is stepping down as soon as Emler is confirmed, and Tom Wright's term is due to expire in March, he said that Albrecht was the logical choice to lead the Commission for the time being.

The motion passed and Shari Feist Albrecht is now head of

the KCC. Although the Commission elects its own chair, it has traditionally honored the governor's preference in doing so. It's unclear as of this writing whether Albrect or Emler will be the chair. Emler was sworn in on January 17.

For cost-free energy-savings:

Put your computer to sleep.

Newer computers can be set up to switch into an energy-saving "sleep" after they're idle for a specified period of time.

Turn off your icemaker.

Icemakers make your refrigerator use up to 20% more energy.

Don't leave exhaust fans running longer than necessary.

Exhaust fans in kitchens and baths left running for an hour can empty your entire house of the air you spent so much to heat or cool.

Use your automatic dishwasher.

A dishwasher uses less hot water than hand washing dishes.

Let the sun shine in during the winter.

By opening blinds or curtains on sunny days so that the sunshine streams into a room, you can reduce your heating costs significantly. Retain warmth by closing them when the sun goes down.

Take a shower, not a bath.

A five-minute shower uses a lot less hot water than a bath in a half-full tub.

Move furniture and drapes away from registers.

Furniture and drapes can trap the air that you spend so much money heating or cooling. Remove any obstacles that prevent the air from circulating as it exits the registers.

Keep closet doors closed.

There's no reason to heat storage spaces—keep those closet doors closed.

Citizens' Utility Ratepayer Board
CURB

Meet our Members:



**ROBERT L.
HARVEY**
– CHAIR
TOPEKA

**ELLEN
JANOSKI**
– VICE CHAIR
PECK



**BOB
KOVAR**
– MEMBER
OSAWATOMIE

**BRIAN
WEBER**
– MEMBER
GARDEN CITY



MEMBER
– TBA

CURBSIDE

THE CITIZENS' UTILITY RATEPAYER BOARD (CURB)

1500 S.W. ARROWHEAD RD.

TOPEKA, KANSAS 66604

TELEPHONE: (785) 271-3200

FAX: (785) 271-3116

EMAIL: ecurb@curb.kansas.gov