

# CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

FIRST QUARTER 2024



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

## Kansas Gas Service Files for General Rate Increase

KCC Docket No. 24-KGSG-610-RTS

On March, 1, 2024, Kansas Gas Service, Inc. ("KGS") filed an application for an increase of its base rates. The Company's overall requested increase is \$93.1 million, inclusive of \$35 million associated with a rebasing of revenue collected through the Gas System Reliability Surcharge. This results in a requested net increase to base rates of \$58.1 million. KGS cites to the level of capital investments made in Kansas since its last rate case in 2018 as a driver of this increase. The Company states that it has invested approximately \$600 million in its natural gas distribution system in order to maintain the system and provide service. Further driving this increase is the Company's proposed Return on Equity ("ROE") of 10.25%, with a capital structure of 59.58% equity and 40.42% debt.

If approved, the \$58.1 million request would result in a bill impact of \$7.87 per month for the average residential customer, or \$94.49 per year. KGS proposes to collect this increase through a raise to the customer charge and volumetric charges.

As a result of the settlement agreement in Docket Number 22-KGSG-466-TAR regarding the securitization of extraordinary Winter Storm Uri costs, KGS conducted a study of whether residential customers would benefit from having subclasses with different rate options based on usage. The study is included as part of this application. From its study, KGS has concluded that there is no correlation between the amount of gas a customer uses and the customer's income level. Nonetheless, KGS has proposed a rate structure that includes subclasses for residential customers based on programs in other states in which KGS's parent company operates. In this "A/B" (i.e., option A or option B) type of rate design, a customer's fixed monthly charge and volumetric charges differ based upon whether their personal usage is higher or lower than a threshold of 73 Mcf per year. KGS proposed this threshold based upon its determination of annual average usage by residential customers. The fixed monthly Customer charge for residential customers who use less than the threshold would increase from \$18.18 to \$20.00 and the Delivery charge associated with usage would increase from \$2.3485/Mcf to \$4.3818/Mcf. Customers who used more than 73 Mcf per year would see their Customer charge increase to \$35.00/month and the Delivery charge would be reduced to \$1.9160/Mcf. Regardless of which subclass a customer is put into, residential customers would see a raise in

### INSIDE THIS ISSUE:

KANSAS GAS RATE CASE	1
SOUTHERN PIONEER RATE CHANGES	3
SOUTHERN PIONEER RENEWABLE ENERGY PROGRAM	4
OTHER CASES	5
LEGISLATIVE UPDATE	8

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(continued next page)

*(from previous page)*

the fixed portion of the bill under the Company's proposal compared to today's rates. Initially, KGS would assign each customer to subclass A or B based on historical usage data. Customers could then elect to switch to the other rate schedule if they believe it would be more beneficial based on personal preferences. Customers would be allowed to switch rate schedules once every twelve months.

As part of its general rate case application, KGS is also proposing to implement a "Performance-Based Ratemaking" mechanism ("PBR"). A PBR is an alternative style of setting rates that adjusts rates based on changes in investments and expenses through a qualitative review of operational and performance metrics. A well-designed PBR should fairly provide benefits to both customers and the utility by incentivizing desired operational behaviors and revenue sharing measures while minimizing the rate impacts of costs and expenses to achieve those results. KGS's proposed PBR mechanism is called the Annual Performance-Based Rate Adjustment ("APRA"). KGS contends that the APRA would reduce the frequency of rate cases while allowing the Company to recover prudent investments in safety and reliability projects and tracking the Company's level of return on these investments. As part of the APRA, a revenue sharing mechanism sets a dead-band (i.e., neutral zone) around the Commission-approved ROE of 100 basis points. Meaning, if the Company under or over earns revenue beyond the ROE dead-band, then a rate adjustment would be warranted. The APRA would be reviewed annually by the Commission and stakeholders to determine whether rates need to go up or down and whether excess revenue beyond the dead-band can be retained by the Company or returned to customers. KGS has proposed implementing a number of customer-focused performance metrics to determine whether revenue must be shared, such as response time to service calls and customer inquiries. 75% of revenue above the dead-band level would flow to customers automatically. KGS would then have the opportunity to retain up to 25% of those earnings if it is able to demonstrate that it has met or exceeded these performance metrics. KGS proposes that it be allowed to make five APRA filings before being required to file another rate case. However, KGS would not be prohibited from filing a rate case sooner.

The public version of the application and supporting testimony can be found on the KCC website ([link](#)). A procedural schedule was approved by the Commission on April 4, 2024. CURB has assigned several analysts and retained a number of consultants to review and analyze the application from the perspective of residential and small commercial customers. Initial testimony responding to the application is due in July. A final order on the application is due on October 25, 2024.

The Commission will host two public hearings at which members of the public can listen to presentations from the Company and intervenors and to ask questions about the rate case. One will be held in Topeka on June 13, 2024, and another in Wichita on June 17 starting at 6:00 p.m. More information about the public hearings, including details about venue and virtual registration will be made available in the coming months on CURB's website ([curb.kansas.gov](http://curb.kansas.gov)).

Also, customers will soon be able to submit public comments regarding the application to the Kansas Corporation Commission (KCC). Once the comment period begins for this docket, comments can be sent via physical mail, over the phone, or online at the KCC's website under "Your Opinion Matters" ([kcc.ks.gov/your-opinion-matters](http://kcc.ks.gov/your-opinion-matters)). More information about the public comment period process can be found through that link.

## CURB Opposes Southern Pioneer's Request for Residential kW Demand Charges

### KCC Docket No. 24-SPEE-415-TAR

This case was initially outlined in CURB News 2023 Q4 ([link](#)) on page 7.

To refresh, Southern Pioneer Electric Company ("Southern Pioneer") filed an Application to make "revenue neutral" changes to its rate design. Southern Pioneer considers its proposal to be revenue neutral because, while the rate structure is changed, total revenues are not projected to change. However, how individual ratepayers are impacted by the proposed rate design may vary considerably.

On March 19, 2024, an online public hearing was held on this matter via Zoom. The public hearing was recorded and uploaded to the KCC's YouTube channel: [youtube.com/@kansascorporationcommission](https://youtube.com/@kansascorporationcommission).

On April 2, 2024, CURB filed testimony regarding Southern Pioneer's request. Southern Pioneer's proposal contains the following provisions to which CURB is opposed:

- Require a Demand Charge of \$3.00 per kW for Single-Phase Service, with a corresponding reduction to Energy Charge. The kW demand will derive from the customer's average kW load during the 15 minute period of maximum use during the month.
- Increase the Customer Charge for Single-Phase Service (i.e., residential and some small commercial) to \$16.67 per consumer per month, from \$14.67.

In the most basic terms, energy demand represents a momentary rate of energy consumption. (For example, the entire time a 100-W lightbulb is on, it demands 100 watts or 0.1 kW of electricity be available. Ten hours of use of a 100-W lightbulb would total 1 kWh of consumption.) Implementing a demand charge causes a portion of customers' bills to be based on their peak energy demand (the maximum total electric energy used for all purposes, including air conditioning, lights, stove, etc., over a 15-minute period of time). The demand charge is in addition to the volumetric charge for total energy consumption.

CURB is opposed to introducing a mandatory demand charge on principle, for several reasons. First, CURB is not aware of any investor-owned public utility in the U.S. that has successfully implemented a mandatory demand charge for residential customers. Some have tried, but have been rejected by their respective state regulatory commissions. Second, demand charges are difficult for typical residential customers to understand and require additional effort to monitor and control. Third, CURB views Southern Pioneer's request as an end-around attempt to circumvent statute that prohibits rate structures that are discriminatory toward customers with self-generation (e.g., rooftop solar). Such customers comprise a miniscule portion of Southern Pioneer's total residential customer class.

CURB is opposed to Southern Pioneer's request to raise the fixed customer charge for Single-Phase Service by \$2.00. A fundamental goal of regulatory policy is that regulation should serve as a surrogate for competition to the greatest extent possible, and consumers in the competitive market tend to prefer volumetric pricing. From CURB's perspective, raising the fixed charge goes against the economic principles of efficient pricing. Furthermore, as an advocate for residential consumers, CURB disagrees with Southern Pioneer in regards to how

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certain categories of costs are assigned between fixed costs and variable costs. By CURB's analysis, the fixed customer charge should actually be lower than it is now, however, in the interest of compromise, CURB is recommending to maintain the current customer charge at \$14.67.

Looking ahead, in April, parties have the opportunity to file cross-answering testimony and Southern Pioneer can file rebuttal testimony. In May, the parties will meet to discuss settlement. If necessary, an evidentiary hearing will be held in June. A Commission Order is due July 30, 2024.

The period for public comment period on this matter is now open, through 5 p.m. on May 15, 2024. There are several ways to submit your comments to the KCC:

- Online, through the KCC's list of dockets that are open for public comment at the KCC's website under "Your Opinion Matters" ([kcc.ks.gov/your-opinion-matters](https://kcc.ks.gov/your-opinion-matters)). Find the listing for 24-SPEE-415-TAR and click "Submit a Public Comment."
- Call the KCC Office of Public Affairs and Consumer Protection at 1-800-662-0027.
- Send a letter to: KCC Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Rd, Topeka, KS 66604-4027.

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## **Southern Pioneer Proposes Optional Renewable Energy Program**

### **KCC Docket No. 24-SPEE-540-TAR**

On January 31, 2024, Southern Pioneer filed an Application requesting to implement an optional Renewable Energy ("RE") Program Rider tariff.

Southern Pioneer receives its power supply from Sunflower Electric Power Corp. ("Sunflower"). Sunflower's generation resource portfolio currently includes several renewable energy resources. The RE Program was developed by Sunflower and has already been implemented by other Sunflower members.

Broadly, the proposed RE Program offers multiple sub-programs across two tiers (residential and commercial) and two divisions (wind and solar).

For residential customers, the primary RE Program offering is the Residential Community Solar Program. Participating customers would subscribe to pay for "shares," which represent renewable energy produced by a solar resource in Sunflower's portfolio (the initial solar facility tied to this program is the [Johnson Corner Solar Project](#), located in Stanton County, Kansas). The Community Solar Program is voluntary, and there is no minimum term commitment required for participation. Subscriptions would be sold on a first-come, first-served basis at a monthly cost of \$5 per 125 kWh share (\$0.04 per kWh), until the allocated shares are fully subscribed. Upon sign-up, participants may subscribe for a number of shares up to the equivalent of their 12-month average energy usage (for the average residential customer this would be around 1,000 kWh, or up to 8 shares). For billing purposes, the customer will be charged the subscription price and receive an offsetting adjustment equal to the market value of the solar resource's energy. During months when market prices are higher than \$0.04 per kWh, the adjustment would outsize the subscription charge, which would lower the customer's overall bill. How-

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ever, when market prices are below \$0.04 per kWh, the customer would not recoup their entire investment.

Southern Pioneer claims that, compared to customer-sited generation (i.e., personal rooftop solar), participants will benefit by paying a price-per-kWh reflective of utility-level economies of scale. Additionally, participants benefit from flexibility with no minimum term commitment. Although there is no guarantee participants would recoup their monthly subscription charge, the Community Solar Program does provide a fixed-price hedge against high/volatile market energy prices.

CURB is reviewing Southern Pioneer's proposal. KCC Staff will file its recommendation on May 3, 2024, to which other parties may respond. A Commission Order is due September 24, 2024.

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## Other Cases

Though not an all-inclusive list, CURB has intervened in the cases below:

### Electric Utilities

- **KCC Docket No. 19-KCPE-096-CPL** [Eversource]

On February 28, 2024, Eversource filed its annual 2024 Capital Investment Plan Update. The filing provides a five-year Capital Expenditure ("CapEx") forecast for 2024-2028.

For Eversource Kansas Central, this filing reflects increased CapEx projections of \$564 million (or 2% compound annual) compared to the prior filing for 2023-2027. The increase is driven by new generation needs. The associated rate impact trajectory for Eversource Kansas Central is approximately 0.7% compound annual growth.

For Eversource Kansas Metro, this filing reflects decreased CapEx projections of \$274 million (or 4% compound annual) compared to the prior filing. The decreased projected investment is driven by reduced new generation. The associated rate impact trajectory for Eversource Kansas Metro is a 1.0% compound annual decline.

- **KCC Docket No. 24-WCNE-235-GIE** [Eversource]

On September 1, 2024, Eversource submitted the 2023 triennial Decommissioning Financing Plan for the Wolf Creek Generating Station. The total decommissioning cost, projected to commence in 2045, is estimated between \$1.17 billion to \$1.52 billion (in 2023 dollars). CURB has intervened in this docket and is studying the issues involved. A KCC Order is due October 1, 2024.

- **KCC Docket No. 24-EKSE-249-CON** [Eversource Kansas South]

On September 12, 2023, Eversource and Occidental Chemical Corporation ("Oxy") filed a joint application requesting approval of a five-year Energy Supply Agreement ("ESA"). Eversource and Oxy currently have an ESA

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that is set to expire June 30, 2024. The specific terms of the proposed ESA are confidential, but, generally, the ESA provides discounted rates for Oxy in exchange for certain commitments.

CURB is reviewing the proposal. A Commission Order is due by June 30, 2024.

- **KCC Docket No. 23-EKCE-588-TAR** [Evergy] *and*
- **Johnson Co. District Court Case No. 24-CV-00086** [Sierra Club/Vote Solar vs. KCC]

On January 5, 2024, Sierra Club/Vote Solar filed a Petition in Johnson Co. District Court for judicial review of the KCC's decision in KCC Docket. No. 23-EKCE-588-TAR which approved a settlement agreement between Evergy, KCC staff, CURB and Voltus, Inc. In particular, Sierra Club/Vote Solar assert that it was unlawful for the KCC to approve the settlement agreement because it allowed Evergy to revise its tariffs to address matters that interfere with Evergy's ability to provide reliable and efficient service to all Kansas retail customers that are caused by unfettered participation of some retail customers in Southwest Power Pool (SPP) wholesale markets through demand response aggregators (DRAs). The SPP is the regional transmission organization wherein Evergy bids in and purchases energy. Under the settlement agreement, Evergy's retail customers seeking to participate in SPP wholesale markets first must provide a registration and consent form to Evergy and, additionally, participating DRAs must have an effective DRA agreement with Evergy.

CURB was a signatory to the settlement agreement because CURB believes that ratepayers bidding demand response in SPP may be beneficial to residential ratepayers, but unfettered access to wholesale markets by ratepayers could impose significant burdens upon retail electric utilities with resulting costs to be absorbed by residential ratepayers. CURB believes that the settlement agreement set forth a reasonable and lawful approach aimed at protecting retail customers.

To the contrary, Sierra Club/Vote Solar contend the KCC's decision imposed unlawful impediments to competitive federal markets for clean energy, which they contend exceeds the KCC's statutory authority and oversteps into exclusive federal jurisdiction. CURB has intervened in the Johnson County appeal as an appellee on the side of the KCC.

- **KCC Docket No. 24-GIME-102-GIE** [All electric public utilities]

On August 3, 2023, the KCC opened a general investigation into the principles and priorities to be established by the KCC for evaluating the reasonableness of the location of a proposed transmission line.

At this stage, stakeholders are working to establish the scope of the investigation. KCC Staff has recommended the Investigation focus solely on establishing guidelines of land use parameters and construction practices that should be considered in determining the reasonableness of the transmission line route.

## **Natural Gas Utilities**

- **KCC Docket No. 24-KGSG-237-CON** [KGS] *and*
- **KCC Docket No. 24-BHCG-652-ACQ** [Black Hills]

Southern Star Central Gas Pipeline (“Southern Star”) has been engaged in efforts to eliminate ownership and operation of Domestic Meters (predominately farm tap and irrigation service) on its system. Southern Star has received FERC regulatory approval to “abandon by sale” Domestic Meter assets (facilities and customer accounts) located throughout Kansas.

KGS and Black Hills are each requesting to separately acquire Domestic Meter assets from Southern Star, along with the associated certification to provide service. Southern Star has entered into agreements to sell 1,042 Domestic Meter assets to KGS and 273 Domestic Meter assets to Black Hills.

CURB is reviewing Black Hills’ and KGS’s proposals. A KCC Order on KGS’s request is due in July if stakeholders achieve settlement, or September if an Evidentiary Hearing is required. A formal procedural schedule has not yet been established for Black Hills’ request.

- **KCC Docket No. 24-KGSG-284-ACQ** [American Energies and KGS]

KGS and American Energies Gas Service (“American Energies”) submitted an Application requesting authorization for KGS to acquire certification and certain assets from American Energies. If approved, American Energies public utility services would be transferred to KGS and American Energies would cease providing public utility services in Kansas.

The former American Energies customers would take service under KGS’s existing rates, the same as any new KGS customer, with one exception being that the acquired customers will be subject to the Winter Storm Uri cost recovery charge carried over from American Energies instead of the charge that is applicable to other KGS customers.

On March 29, 2024, the parties to this docket filed a unanimous settlement agreement. The parties recommend KCC approval of the initial proposal with a few minor modifications. A KCC Order is due May 23, 2024.

- **KCC Docket No. 24-GIMG-453-GIG** [Atmos and KGS]

As part of the disconnection process, the KCC’s Billing Standards require public utility technicians to attempt to make personal contact with the customer on-premises and accept payment in order to avert disconnection, a protocol commonly referred to as “Knock and Collect.” However, most public utilities have been granted either a permanent or temporary waiver (i.e., exemption) from this requirement by KCC, meaning personal contact is not required ahead of disconnection. Regardless, it is still required that customers receive multiple notifications of delinquent payment via mail, phone, and/or digital starting 10 days prior to disconnection.

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Atmos and KGS have both been granted temporary waivers (i.e., trial-basis) from the Knock and Collect requirements, and are now seeking to make these waivers permanent.

CURB is currently reviewing the gas utilities' proposal and developing a response to the request. A formal procedural schedule has not yet been established.

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## 2024 Legislative Update

The 2024 Kansas Legislative session was very busy with respect to energy matters. Below is a brief summary of some of the bills introduced and/or acted upon by the Kansas Legislature. Each bill can be accessed online: [kslegislature.org/li/b2023\\_24/measures/bills/](https://kslegislature.org/li/b2023_24/measures/bills/)

### **House Bills**

**House Bill (“HB”) 2527** was introduced into the House Committee on Energy, Utilities and Telecommunications (“HEUT”) on January 18, 2024, and addressed various aspects of regulation of utilities by the KCC. As it was introduced by Evergy, the bill authorized certain cost recovery mechanisms for certain rate base additions; amended the economic development statute (K.S.A. 66-101j) including the peak demand threshold and discount term for economic development electric rates for large facilities; and authorized a rate adjustment mechanism for the construction of new gas-fired electric generating facilities. Of particular concern to CURB, Section 2 of HB 2527, as introduced, required the KCC to evaluate the test year capital structure of certain public utilities without regard for entities affiliated with such utility; allow a large public utility to elect to base its rate of return on equity (ROE) upon the fully-litigated case 12-month average from the most recent report issued in the regulatory research association regulatory focus publication (or successor publication) for the applicable utility type, but excluding observed rates of return for certain types of utilities cases.

CURB filed opposing written and oral testimony before the HEUT. Foremost of CURB's objections was CURB's view that Section 2 of the Bill proposed a “significant, unwarranted and outrageous change to the utility regulation paradigm in Kansas that has worked to set rates in a lawful manner for over a century.” However, several other aspects of HB 2527 also troubled CURB.

Importantly, Evergy proposed a series of meetings with the KCC staff, CURB, and other stakeholders to discuss and attempt to resolve the issues that these stakeholders had with the Bill as introduced. Thus, over a period of several weeks, Evergy and the stakeholders met and made several changes to this bill, chief of which was the removal of Section 2 pertaining to ROE and capital structure. In addition, the plant in service provisions in HB 2527 were changed. The bill now provides that electric public utilities can elect to defer to a regulatory asset all depreciation expense and returns associated with rate base additions except transmission facilities and new electric generation units. These deferred items are carried at the utility's weighted average cost of capital plus applicable income and excise taxes, until the regulatory asset balances are dealt with in the utility's rate case. Thereafter, the regulatory asset balances, if approved by the KCC, will be recovered through a 20-year amortization beginning when the utility's new rates take effect. Deferrals under HB 2527 are limited by a revenue requirement impact cap that is tied to a time-related factor of 1.5% of the revenue requirement of the utility as established in the most recently completed rate case.

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In addition, the working group changed the economic development rates provision in HB 2527, amending K.S.A. 66-101j which pertains thereto. Under that statute, the KCC shall authorize an electric utility's economic development rate schedules (EDRs) that provide five-year discounts from otherwise applicable standard rates for electric service for certain new or expanded facilities of industrial or commercial customers (subject facilities). K.S.A. 66-101j specified the peak demand and load factors (or other conditions) needed by the subject facilities to qualify for the EDRs. As it was changed through the work group meetings, HB 2527 amends K.S.A. 66-101j, principally, by adding a new category of subject facilities that qualify for 10-year EDRs. To qualify, the subject facilities shall have a peak demand that is reasonably projected to be at least 25 megawatts and an annual load factor projected to be at least 55% within two years of when the subject facilities first receive service under the EDRs, and shall maintain such peak and load factor during the duration of the EDRs. For the first five years, the average discount shall not exceed 40%, and for the final five years, the average discount shall not exceed 20%. HB 2527 also amends 66-101j to provide that the difference between the revenues collected through the EDRs (after July 1, 2024) and the revenues that would have been generated without such discounts shall not be imputed into the electric utility's revenue requirement.

Finally, as changed by the working group, HB 2527 amends K.S.A. 66-1239, which pertains to KCC applications made by utilities that seek certain rate treatments regarding their acquisition and/or retirement of specified utility facilities. Accordingly, HB 2527 amends K.S.A. 66-1239 in five principal respects.

First, it expands the deadline within which the KCC must determine applications made under the statute from 180 days to 240 days from the date the application is filed. (This is essentially what was contemplated in HB 2597 or included in other bills – see below).

Second, it provides that the KCC may not authorize the abandonment, retirement, or decommissioning of a fossil-fueled or nuclear electric generation plant unless the pertinent utility shows that it will be able to meet current and reasonably-anticipated future resource adequacy requirements, and that it will not harm the utility's customers or the utility's regional competitiveness, subject to the cost requirements of the utility's integrated resource plan as utilized by the KCC. (This provision is a modification of the requirements for abandonment of fossil-fuel generation as contemplated in HB 2620 and SB 455 – see below).

Third, HB 2527 provides that if a nuclear or coal-fired facility is determined by the KCC to be just and reasonable for sufficient and efficient service, a utility is permitted to retain such facility in such utility's rate base, and to recover pertinent operating expenses and that portion of the rate base necessary to operate the facility at a low capacity factor or, for facilities that are offline during normal operating conditions, in order to provide capacity only.

Fourth, HB 2527 requires the KCC to prepare and submit to the Kansas Legislature a report showing the number of requests made by utilities to retire electric generating units in Kansas, the name plate capacity of each of those units and whether such requests were approved or denied by the KCC, the impact of any approved retirement upon the utility's and state's generation capacity by fuel type, upon the utility's reserve capacity requirements and overall capacity reserve margin of Kansas, and upon other matters, and whether the retirement resulted in stranded costs that will be recovered by the utility. (These reporting requirements are es-

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essentially the same as contained in HB 2620 and SB 455 – see below.)

Fifth, HB 2527 allows an electric utility to apply for a rate adjustment mechanism for a new gas-fired generating facility, designed to recover 100% of amounts recorded to construction work in progress on the utility's books for the utility's stake in such facility, provided that the KCC determines that the utility's stake in the generation plant is reasonable. The plant in service provisions and the amendments to K.S.A. 66-101j and K.S.A. 66-1239 in HB 2527 have a sunset provisions of December 31, 2030 that, upon timely application, can be extended by the KCC to December 31, 2036.

CURB appreciated being part of the working group that discussed and modified HB 2527 and believes that the modifications were beneficial to ratepayers. In particular, CURB was encouraged to see that it included a provision calling for Eversource and other energy stakeholders to meet in the immediate future to discuss the dynamic energy environment that exists today and to determine what changes in the law are necessary to effectively deal with the same while protecting energy consumers. These discussions can be essential to deal with increased power demands, climate issues, utility costs that can be an overwhelming energy burden or keep industry from locating in Kansas, and other issues. Nonetheless, CURB could not support HB 2527 as it was presented to the Senate Committee on Utilities (SCU) and the HEUT because CURB regularly opposed economic development rates, expanded use of Construction Work in Progress alternate recovery mechanisms, and economic development rates. Since these were still included in HB 2527, after modified by the working group and presented to the HEUT and SCU, CURB filed neutral testimony and explained that CURB would not be able to reconcile support for HB 2527 with the positions that CURB has taken and would likely take in the future on these issues. Yet, CURB recognized the legislation to be policy-oriented and subject to voices of the constituents represented by Kansas Legislators. CURB determined to let those voices decide the fate of the bill. Accordingly, CURB did not oppose HB 2527.

The House passed out the bill favorably on a vote of 111 to 8 on March 13, 2024. Senate Utilities amended the bill by requiring any discount given by a public utility and deferred to a regulatory asset prior to July 1, 2024 be recoverable in a rate proceeding after July 1, 2024, through an equal percentage adjustment to the revenue requirement responsibility for all rate classes. The amended bill was sent to a Conference Committee. In the Conference Committee, the House acceded to the amendment made by the Senate. The Conference Committee also placed HB 2588 and HB 2597 into HB 2527 before recommending that HB 2527 be passed. On April 3, 2024, the Conference Committee Report was adopted by both the House (119 to 0) and the Senate (33 to 2). Governor Kelly signed the bill on April 18, 2024. The act will take effect after its publication in the statute book.

**HB 2588** was introduced on January 24, 2024. The bill amends K.S.A. 66-1264, K.S.A. 66-1265, K.S.A. 66-1266 and K.S.A. 66-1267, all of which pertain to customer generators as defined by the bill. Currently, K.S.A. 66-1265 provides that electric utilities shall make net-metering available on a first come, first served basis to customer-generators until the total rate generation capacity of all net metered systems equals 1% of the utility's peak demand from the prior year. HB 2588 incrementally raises that limit by 1% annually, starting July

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1, 2024, and culminating with a cap of 5% commencing July 1, 2027. HB 2588 also amends K.S.A. 66-1266 to include a formulation by which the utility can offer customer-generators time-varying rate plans. HB 2588 also raises the limitations on the capacity size of the generation facilities for which a utility must allow an interconnection agreement and establishes requirements for exporting power to a utility from a facility subject to net metering. Finally, it amends K.S.A. 66-1264 (which contains definitions of terms pertaining to the above statutes) to accord with the amendments to K.S.A. 66-1265, K.S.A. 66-1266 and K.S.A. 66-1267. As noted above, HB 2588 was included in HB 2527 by the Conference Committee assigned to that bill, has been enrolled and sent to Governor Kelly.

**HB 2597** was introduced on January 25, 2024. The bill would extend the timeline for the KCC to make a determination regarding rate-making treatment for electric generating or transmission facilities from 180 to 240 days. CURB submitted written-only proponent testimony stating that applications brought before the commission are very complex and have significant, long-term effects upon ratepayers. Extending the time for the KCC to determine these applications is reasonable and would allow the KCC more time to carefully consider the evidence of record. HEUT held a hearing on this bill on February 8, 2024 but took no further action. The extended timeline contemplated by HB 2597 has been included in HB 2527 which has been enrolled and sent to Governor Kelly.

**HB 2620** was introduced on January 30, 2024. The bill would establish a rebuttable presumption against retirement of fossil fuel-fired electric generating units, requiring the KCC to report on such retirements and extending the timelines for the commission to make a determination regarding rate-making treatment for generating or transmission facilities. CURB submitted written-only proponent testimony on this bill because the bill attempts to protect residential and small commercial utility ratepayers from a potential lack of reliability and/or resiliency in the utility's system or result in higher utility rates. The bill further requires the KCC to prepare an annual report to the legislature by December 1 detailing the number of requests by utilities to retire electric generating units in the state and other matters. HEUT held a hearing on this bill on February 13, 2024 but took no further action. However, the requirements set forth in HB 2620 pertaining to retirement of fossil-fuel generating units were modified and placed into HB 2527, as were the reporting requirements set forth in the bill. HB 2527 has been enrolled and sent to Governor Kelly.

## **Senate Bills**

**Senate Bill ("SB") 455** was introduced on February 7, 2024. It amends K.S.A. 66-1239 to provide that a utility is permitted to retain a coal-fired facility in such utility's rate base, and to recover pertinent operating expenses and that portion of the rate base necessary to operate the facility at a low capacity factor or, for facilities that are offline during normal operating conditions, in order to provide capacity only. The bill would amend current law by extending the timeline from 180 days to 240 days for the KCC to make a determination

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of rate-making principles and treatment proposed by a petitioning public utility. On February 20, 2024, the committee recommended passage of the bill. The Senate passed the bill on February 22, 2024, by a vote of 29-8. HEUT amended the bill by adding nuclear power plants to the bill. The amended bill passed the House of Representatives on a vote of 107-16 on March 26, 2024. These provisions were included in HB 2527 by the Conference Committee assigned to the bill. See above.

**SB 456** was introduced on February 6, 2024. It amends current statute and deals with the retirement or abandonment of fossil fuel-fired electric generating units. The amended statute would not permit the KCC to approve the retirement of a fossil fuel unit or authorize a surcharge or issuance of bonds for decommissioning of the unit unless evidence is provided showing the retirement will not affect the reliability and resiliency of the electric transmission grid among other factors. Evidence must also be provided showing the retirement will not harm the utility's ratepayers or cause their ratepayers to incur additional net incremental costs that could have been avoided by continuing to operate the unit. The bill further requires the commission to prepare an annual report to the legislature by December 1 detailing the number of requests by utilities to retire electric generating units in the state and other matters. The committee held a hearing on this bill on February 15, 2024, in which CURB submitted proponent written-only testimony. The committee took no further action. SB 456 essentially has the same provisions as HB 2620 which was placed in HB 2527 and has been enrolled and sent to Governor Kelly.

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ABOUT THE CITIZENS' UTILITY RATEPAYER BOARD

Established in 1988, the Citizens' Utility Ratepayer Board (CURB) is an agency focused on advocacy for residential and small commercial utility consumers in Kansas. The Board is composed of five (5) appointed volunteer members representing the four congressional districts in Kansas and one at-large member. CURB was initially founded by the Chairman of the Kansas Corporation Commission upon a perceived need for a stronger consumer advocate. CURB has evolved into an independent agency, currently employing a consumer counsel, two supporting attorneys, three analysts, and two administrative staff.

**OUR MISSION:** To zealously protect the interests of residential and small commercial utility ratepayers before the Kansas Corporation Commission and the Kansas legislature.

**OUR VISION:** To protect Kansas residential and small commercial utility ratepayers by promoting the delivery of optimal utility services—being safe, reliable and technically robust, environmentally sensible, cost-effective, and equitably provided to all Kansas utility consumers at just prices.

**Struggling to pay your utility bills?**

For financial assistance, visit:

<https://www.dcf.ks.gov/services/ees/Pages/HelpOrg.aspx>

(Search for your city to find local helping organizations.)



# The Citizens' Utility Ratepayer Board



**Carol Barta**  
*Chair*  
Manhattan



**Leilani Grey**  
*Vice-Chair*  
Topeka



**Mary Treaster**  
*Member*  
Pretty Prairie



**Rachel Jefferson**  
*Member*  
Kansas City



**Dr. Dayna Burks**  
*Member*  
Wichita