

# CURB News



Volume 17, Issue 1

THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

January 2017

## SAVINGS FOR EMPIRE RATEPAYERS



On November 9, 2016, the Kansas Corporation Commission (KCC) held an evidentiary hearing for [Docket 16-EPDE-410-ACQ](#) in which CURB, KCC Staff, and the Joint Applicants (Empire District Electric Company, Liberty Sub Corp., and Liberty Utilities Central Co.) presented evidence supporting the approval of the acquisition of Empire by the Joint Applicants. On December 22,

2016, the KCC issued an [Order](#) approving the Unanimous Settlement Agreement and Joint Application, thereby approving the acquisition of Empire by Liberty Utilities Central Co. As a result of the approved Unanimous Settlement Agreement, Empire has agreed to withdraw its rate increase filed in [Docket 17-EPDE-101-RTS](#). Furthermore, Empire has agreed to not refile this rate in-

crease request until May 1, 2018. This results in a customer benefit of approximately \$5.77 million, or a savings of approximately \$597 per Kansas customer. CURB believes that the approval of this transaction benefits Empire's residential and small commercial ratepayers in light of the savings. CURB worked diligently with KCC Staff and the Joint Applicants to secure these savings and believes that this transaction is in the public interest.

### UPCOMING CASES WE ARE FOLLOWING:

- 16-KCPE-593-ACQ — GPE SEEKS TO ACQUIRE WESTAR
- 16-GIME-576-GIE — ALL ELECTRIC RATES INVESTIGATION
- 17-WSEE-014-TAR WESTAR AND KG&E'S 2016 TARIFF RIDER
- 17-EPDE-280-TAR EMPIRE DISTRICT EC AERR ENVIRONMENTAL RIDER

## ABBREVIATED RATE CASES FILED BY KCP&L, WESTAR

Both Kansas City Power & Light (KCP&L) and Westar Energy, Inc. (Westar) have filed applications with the Kansas Corporation Commission (KCC) for changes to their rates as established in each company's prior general rate case. Called "abbreviated filings," these allowable applications must be initiated by

utilities within 12 months of a general rate proceeding and follow the mandates as outlined in the general rate cases.

Westar's abbreviated rate request filed October 26, 2016 in [Docket 17-WSEE-147-RTS](#) proposes to raise its prices by one percent, or about \$17.4 million.

If granted, the request will result in an increase to the average residential bill of about \$1.54 per month. As per Westar, the company is filing to recover costs that weren't available when presenting last year's cost estimates in [Docket 15-WSEE-115-RTS](#), and the majority of the claim is related to

### Inside this issue:

DG DOCKET UPDATES	2
ABBREVIATED RATE CASES CONT.	2
FERC ENTERS RETAIL MARKET	3
CONSUMER FEATURE: BABY STEPS TO CURB ENERGY USE	3

## CURB *Citizens' Utility Ratepayer Board*

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### OUR MISSION:

TO ZEALOUSLY  
PROTECT THE  
INTERESTS OF  
RESIDENTIAL AND  
SMALL  
COMMERCIAL  
UTILITY  
RATEPAYERS .....

### (Abbreviated Rate Cases, cont. from page 1)

environmental upgrades at power plants.

Filing its abbreviated application on November 9, 2016 in [Docket 17-KCPE-201-RTS](#), KCP&L is requesting a rate decrease of 0.5 percent before the KCC that will amount to roughly \$0.56 per month for the average residential consumer. According to KCP&L this rate decrease is at-

tributed to environmental equipment upgrade costs at power plants coming in under the budget outlined in the general rate case [Docket 15-KCPE-116-RTS](#). KCP&L indicates the typical residential customer in Kansas uses an average of 1452 kWh per summer month and 791 kWh per winter month.

The CURB has inter-

vened in both of these abbreviated rate cases to review the rate requests from Westar and KCP&L and will file testimony regarding any concerns that may be revealed. Watch the CURB newsletter for updates and developments as these rate cases proceed.

### Distributed Generation Update

The Kansas Corporation Commission (KCC) and Staff have opened an investigation filing in [Docket 16-GIME-403-GIE](#) to establish rate design policy for customers of distributed energy generation (DG) as well as study the costs and benefits of DG systems. Distributed Generation is energy generated independently of the central electric grid, and typically includes most renewable energy sources such as solar photovoltaic (PV),

wind power, biomass and geothermal power. This issue was first highlighted and covered in greater detail in the September 2016 (Issue 1) CURB Newsletter. CURB's staff and consultants are in the process of investigating this issue to present to the Commission on behalf of residential and small commercial ratepayers. CURB will address the costs and the benefits of providing utility service to DG customers and provide an analysis on

the best way to structure the residential rate design to recover the costs created by DG. CURB anticipates that the KCC will issue an Order in the near future that will set the procedural schedule in this Docket, and CURB will prepare accordingly. Further details regarding CURB's participation in this important case and your chance to give your comments are forthcoming. Stay tuned!

## FERC Enters Retail Market Under Wholesale Demand Response Program

Although it is not a Kansas case, we thought it newsworthy to include a brief discussion of a United States Supreme Court case because it may affect regulation of retail utility rates at the state level. In *FERC v. Electric Power Supply Association*, 136 S. Ct. 760 (2016), the United States Supreme Court upheld a Federal Energy Regulatory Commission (FERC) rule which requires wholesale market operators to pay aggregators of electricity consumers for demand response participation (except when the state regulatory authority overseeing those users' retail purchases bars such

demand response participation) at the locational marginal price (LMP). At issue in this case was the scope of authority of the FERC under the Federal Power Act (FPA), principally, U.S.C § 824(b) which "limit[s] FERC's sale jurisdiction to that at wholesale," reserving regulatory authority over retail sales (as well as intrastate wholesale sales) to the States.

Delivering the opinion for the majority of the Court, Justice Kagan conceded that retail rates would be affected by the FERC rule. However, she stated that "a FERC regulation does not run afoul of § 824(b)'s proscription

just because it affects — even substantially — the quantity or terms of retail sales.... The Commission's Rule addresses — and addresses only — transactions occurring on the wholesale market.... In sum, whatever the effects at the retail level, every aspect of the regulatory plan happens exclusively on the wholesale market and governs exclusively that market's rules." Thus, the FERC rule was upheld as not interfering with state's authority (such as the KCC) over retail utility rates.

Justice Scalia, joined by Justice—see back page



AT ISSUE IN  
THIS CASE  
WAS THE  
SCOPE OF  
AUTHORITY OF  
THE FERC...

## Consumer Feature: BABY STEPS to CURB ENERGY USE

Happy New Year from CURB! To start off right, we offer these energy tips for 2017.

### Use Mother Nature

If the weather is fine, hang clothes outside. Or, hang them inside! Use insulating drapes to help save energy, but

be sure to open them wide on sunny days to help warm the room.

### Soften Lights

Use lamps outfitted with LED or CFL bulbs and avoid overhead halogen bulbs. Switch lights off when leaving the room — the savings will help you sleep better at

night.

### Those Doodads

Turn off small kitchen appliances that aren't being used. Although small, they can add up to 5% of your energy bill.

<https://www.originenergy.com.au/blog/lifestyle/baby-steps-to-saving-energy.html>



## News from the Watchdog for Residential and Small Commercial Utility Consumers

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*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 CURB is composed of an appointed board of five (5) volunteer members representing the congressional districts in Kansas and one at-large member, and was initially founded by the Chairman of the Kansas Corporation Commission upon a perceived need for a stronger consumer advocate. Today, CURB has evolved to an independent agency with its mission "to zealously represent the interests of residential and small commercial utility ratepayers before the Kansas Corporation Commission and the Kansas legislature."*

## We're on the Web!

[curb.kansas.gov](http://curb.kansas.gov)

### FERC Enters Retail Market, cont. from page 3

Thomas, dissented. The dissenters pointed out that "the majority would find every sale of electric energy to be within FERC's authority to regulate unless the transaction is demonstrably a retail sale." However, U.S.C § 824(b) actually excludes from FERC's jurisdiction all sales of electric energy except those that are demonstrably sales at wholesale. Under the FPA, wholesale sale is defined as "a sale of electric energy to any person for resale." Justice Scalia noted that "[a]ggregators of multiple users of electric-

ity... do not resell electric energy; they consume it themselves.... It is therefore quite beside the point that the challenged '[r]ule addresses — and addresses only — transactions occurring on the wholesale market....' FERC's regulatory authority over electric-energy sales depends not on which 'market' the 'transactions occur on,'... but rather on the identity of the putative purchaser."

CURB highlights this case decided in early 2016, because it arguably allows FERC to cross the jurisdictional line set out in U.S.C §

824(b). One could argue that the majority of the Supreme Court has ignored the fact that the pertinent FERC rule is aimed directly at retail customers. To the extent that FERC rules can disrupt retail sales by luring retail consumers into wholesale markets, the ability of state utility commissions like the KCC to provide stable retail rates may be adversely affected.

