

CURB News



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THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

January 2018

Kansas Legislature Begins 2018 Session—Energy Update



The Kansas legislature began its 2018 session on January 8, 2018. Thus far, several bills have been introduced which relate to utility issues. As part of its statutory duties, CURB advocates for residential and small commercial ratepayers before the Kansas legislature. CURB has been actively monitoring legislative bills as they are introduced and work their way through the Kansas legislature.

CURB believes that there are some legislative bills deserving special attention. The first is Senate Bill 279. This bill amends the Gas Safety and Reliability Policy Act (GSRA) to double the amount of capital expenditures on gas pipeline safety that can be collected from the ratepayer through a surcharge. Under the current GSRA, utilities can replace pipelines when required by state or federal law and up to

\$.40 per month can be collected from each ratepayer through a surcharge. (A surcharge is a special charge noted on a customer's bill that is above the base rates approved by the Kansas Corporation Commission (KCC). Amounts collected as surcharges generally do not get the detailed review that other utility expenditures get by CURB and the KCC staff in a rate case.) Under Senate Bill 279, gas utilities can collect up to \$.80 per month per customer for all expenditures to replace, upgrade or modernize pipelines and related facilities or on system security. Under Senate Bill 279, the gas utilities would not be required to seek KCC approval on capital expenditures before they are made. On February 5, 2018, the Senate Utilities Committee heard the testimony of proponents and opponents of SB 279. CURB opposed it. An amended version of SB 279 has been passed by the Committee.

CURB believes that Senate Bill 279 essentially

changes traditional ratemaking in Kansas, where capital expenditures made by utilities are reviewed by the KCC staff, CURB and other parties and approved as prudent and in the public interest. Moreover, the KCC has already granted the gas utilities accelerated pipeline replacement in addition to the \$.40 surcharge allowed by the GSRA. Maintaining pipelines and facilities to be safe and reliable are part of the gas utilities' duties to ratepayers. As pointed out by the KCC in a recent docket, a reasonable person would question why the ratepayer should have to give a gas utility incentives merely to do their job. On the other hand, CURB understands the importance of pipeline safety and reliability. Thus, CURB sees the need to work rationally with utilities to ensure that pipelines are reasonably safe and reliable.

Another legislative bill of note is Senate Bill 356 that requires the KCC to investigate why Kansas electric bills have risen to the level currently experienced by ratepayers.

UPCOMING CASES WE ARE FOLLOWING:

- 18-WSEE-328-RTS — WESTAR ENERGY SEEKS TO CHANGE RATES
- 18-WCNE-107-GIE — WOLF CREEK DECOMMISSION FINANCE PLAN
- 18-GIMX-252-COM — KIC COMPLAINT AGAINST TELECOMMUNICATIONS COMPANIES FOR TAX REFORM 2018

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CURB *Citizens' Utility Ratepayer Board*

Meet our Members:



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LEAVENWORTH

OUR MISSION:

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

(Kansas Legislature, cont. from page 1)

The retail electric rates of KCPL/KS have risen 40% in the last 5 years and the retail electric rates of Westar have risen 37% in the last 5 years. Some point out that Kansas electric retail rates are currently higher than the national average and are considerably higher than the electric retail rates in several other states that surround Kansas. Senate Bill 356 seeks to have the KCC ascertain the reasons why electric retail rates have

increased so dramatically over the last few years.

Finally, Senate Bill 278 seeks to enlarge CURB's statutory authority to allow it to intervene and represent residential and small commercial ratepayers before the Federal Energy Regulatory Commission (FERC), the Federal Communications Commission (FCC) and the Southwest Power Pool (SPP). Currently, no party specifically represents residential

and small commercial ratepayers at these venues. However, many decisions which greatly affect residential and small commercial rates are made at the FERC, FCC and SPP. Senate Bill 278 would allow CURB to fill that void. CURB believes that Senate Bill 278 will allow CURB greater opportunity to advocate for the rights of residential and small commercial ratepayers on important utility matters.

Tax Cuts and Jobs Act Should Benefit Ratepayers

On December 15, 2017, a House of Representatives and Senate Conference Committee released a unified version of the Tax Cuts and Jobs Act. President Trump signed it into law on December 22, 2017, and it became effective as of January 1, 2018. Most prominently, the Tax Cuts and Jobs Act reduces the tax rates on income paid by corporations from an income-graduated top tax rate of 35% to a flat tax rate of 21%. As corporations, some Kansas utilities will experience this tax reduction. It is important to remember that utilities collect federal and state taxes to be paid to the government from ratepayers. Thus, when utility tax rates are lowered, the cost of service incurred by utilities is also lowered. Consequently, as the cost of service becomes lower, rates paid by ratepayers should become lower.

CURB has filed a complaint with the KCC asserting

that all benefits arising from the lowering of the top tax rate of 35% to a flat tax rate of 21% should inure to the benefit of ratepayers, effective from and after January 1, 2018. Prior to the filing of CURB's Complaint, the KCC staff filed a Motion that requested the KCC to open a general investigation and issue an Accounting Authority Order (AAO) requiring the utilities to track and accumulate in a separate account the amount equal to the difference between the 35% and 21% tax amounts. This would preserve any potential tax benefits for ratepayers until the KCC can evaluate the reasonableness of utility rates on a case-by-case basis. The concern of Staff as well as CURB is that the utilities will continue to collect rates that were determined using the 35% income tax amount, and this could result in a large windfall for the utilities.

CURB has sought to intervene in the docket ([18-GIMX-248-GIV](#)), which is a general investigation into the matter. In its Order Opening General Investigation and Issuing Accounting Authority Order Regarding Federal Tax Reform, the KCC determined that "passage of the federal Tax Cuts and Jobs Act has the potential to significantly reduce the cost of service for many utilities operating in Kansas because the Commission in determining rates generally authorizes recovery of all federal taxes from ratepayers." Significantly, the Commission determined that a general investigation into the effect of the Tax Cuts and Jobs Act on cost of service is justified, and that the investigation is not intended "to materially impact regulated utilities' profitability, but rather, ensure that the affected utilities are neither positively nor negatively impacted by the passage of federal income tax reform." As these dockets progress, updates will follow.

CURB TO RESEARCH PRIVACY RIGHTS OF RATEPAYERS

During CURB's last board meeting on December 5, 2017, its Board Members directed that CURB staff research consumer's privacy and usage control rights in connection with advanced metering and technology developments in utility services. This topic is not only timely but of obvious importance. As most ratepayers know, electric utilities have historically used watt-hour meters to record the amount of electricity that a home or business uses. However, Westar, KCP&L and other utilities are increasingly using electronic meters known as "smart meters" to measure a home's or business's electric usage. The combination of these electronic meters with two-way communications technology allows for greater information collection, monitoring, and control of electric usage (commonly referred to as Advanced Metering Infrastructure or AMI). In short, AMI creates substantially more data about residential or business electric usage than

did the watt-hour meter.

Yet, as frequently reported in the news, data collection has its advantages and its dangers. One must always be concerned about the misuse of a person's or a business's private information. In fact, the Federal Trade Commission is often engaged in consumer complaints with respect to breaches of consumer data to the public. Rightfully so, as the right of privacy has long been upheld by United States courts. Certainly, one can sensibly assert that the utility's reasonable protection of ratepayer's data obtained through AMI is part of that utility's duty to provide safe and reliable service to its customers.

There are several aspects of privacy enveloped in the use of data obtained from AMI. Among these are the rights to privacy control, security, minimization, anonymization, and data quality. As applied to AMI: privacy control is the right to determine

how one's data is used; security is the right to protect data from unauthorized use; minimization is the right to keep a third party's use of data to the minimum necessary to fulfill an authorized purpose; anonymization is the right to keep data collection and use anonymous so that it cannot be tracked to a specific individual; and the right of data quality speaks to the right to expect that collected data is accurate. Several states have issued orders or have enacted statutes which protect utility ratepayers' rights to privacy in connection with utility data collection. As directed by its board members, CURB staff will undertake the task of researching how other states protect ratepayer's privacy rights in an era of AMI to establish best practices and CURB policy. More on this item as research progresses.



“...THE UTILITY'S REASONABLE PROTECTION OF RATEPAYER'S DATA OBTAINED THROUGH AMI IS PART OF THAT UTILITY'S DUTY TO PROVIDE SAFE AND RELIABLE SERVICE...”

KANSAS OPENS ENERGY PAYMENT ASSISTANCE PROGRAM

The Kansas Department for Children and Families (DCF) is now accepting applications for its Low-Income Energy Assistance Program (LIEAP) through Friday, March 30th, 2018. Applications must be received in the DCF office by that date, and can be filed online, emailed, faxed, or by U.S. postal mail. LIEAP is a federally funded program that helps eligible households

pay a portion of their home energy costs by providing a one-time per year benefit. “No family should have to endure the frigid temperatures of the winter months without proper heating,” DCF Secretary Gina Meier-Hummel said. “Our LIEAP program ensures low-income Kansans are able to escape the cold in the warmth of their homes.” To

qualify, applicants must meet income eligibility requirements and have made payments on their heating bill two out of the last three months. For more information about the program, visit the [DCF website](#) or [complete the application online](#).





Flat Ridge 2 Wind Energy farm near Wichita. The farm generates 470 MW.

“...EMPIRE WOULD BE ALLOWED TO RETAIN PART OF THE SAVINGS GENERATED UNDER THE PLAN...”



EMPIRE FILES CUSTOMER SAVINGS PLAN

Empire District Electric Company has filed a Petition with the KCC for approval of a new plan for energy generation sources. Called the “Customer Savings Plan,” Empire seeks to develop up to 800 MW of wind generation in or near Empire service territory using federal tax incentives in conjunction with a tax equity partner, as well as retire the Asbury coal fired plant. Empire has filed similar petitions in Missouri, Arkansas and Oklahoma as the company has customers in all four states.

Empire believes up to \$325 million in potential customer savings over the next 20 years would come about if the Commission would pre-approve the proposed Customer Savings

Plan. This would translate to a monthly savings of \$10.02 for its Kansas customers who use an average of 1000 kwh per month. Empire is specifically asking approval of:

—Authorization to record its investment in the costs to operate the Wind Projects in its rate base.

—Authorization to create a regulatory asset for the undepreciated balance of the Asbury plant, so that it may be considered as part of the rate base in future dockets.

—Approval of the arrangements, to the extent needed, between Empire and others necessary to implement the plan.

—Approval of depreciation rates.

—Issuance of an or-

der to be effective by June 15, 2018, so approval would be final by June 30, 2018.

—Empire would be allowed to retain part of the savings generated under the plan.

Empire is attempting to put this on the fast track and thereby receive an order by June 15, 2018. The Commission recently set a procedural schedule for this docket, with a hearing set for the first week of May. This docket may be complicated by the recent changes in corporate federal income taxes that went into effect January 1, 2018. CURB is currently reviewing the filing in order to determine how we may wish to respond.

CURB RAISES CONCERNS FOR MERGER

In the September 2017 Newsletter, CURB discussed the merger filing of Great Plains Energy, KCP&L, and Westar (or collectively “Applicants”) in Docket 18-KCPE-095-MER. On January 22, 2018, the KCC held a public hearing on the proposed merger. CURB, Staff, and the Applicants presented a general overview of the proposed mer-

ger and answered questions from the public. People in attendance were also able to make comments to the KCC Commissioners.

CURB’s consultant Andrea Crane and analysts Stacey Harden and Cary Catchpole filed direct testimony on January 29, 2018 recommending the addition of several safeguards for adoption should the

merged operations be approved. These conditions include a rate credit for ratepayers over the next five years, a rate moratorium, an annual review process, and extended quality of service guarantees. Watch future CURB News for developments on this important case that will affect over one million Kansas customers.

EMPIRE ACA FILING UPDATED

Empire District Electric Company (Empire) filed an [Application \(Docket 18-EPDE-231-ACA\)](#) on December 1, 2017 seeking Commission approval of its Annual Energy Cost Adjustment (ACA) for its Energy Cost Adjustment year ending October 21, 2017. As a refresher, an ACA reflects the over/under recovery of energy costs and the corrected and revised annual calculation of

over/under refund of the prior year's off system sales margins. In its original application Empire indicated that it had over collected an approximate \$831,752 for the ACA period. In addition, Empire included an annual forecast of energy costs, which are expected to decrease in 2018.

On December 28, Empire filed an [amended application](#) that contained a revised annual calcula-

tion. The calculation provided by the company results in an under recovered balance of approximately \$184,544 for the ACA period. The amended application seeks to recover the under recovered balance.

CURB has intervened in this docket and is currently reviewing the original application and the amended application. We will provide updates as this case proceeds. Stay tuned!



Empire District
A Liberty Utilities Company

“CURB...WANTS TO FULLY INVESTIGATE THE RATE IMPACTS OF SOCIALIZING THE COST OF CREDIT CARD TRANSACTION FEES...”

Southern Pioneer Requests Changes to Processing Fees

Southern Pioneer Electric Company is seeking to make changes to its credit card fees. Currently, all Southern Pioneer customers who pay their monthly utility bill using a credit or debit card are charged a \$3.95 convenience fee, with a limit of \$500 per transaction. Southern Pioneer's request will allow residential customers to make payments using credit and debit cards without incurring a fee. Also, if approved by

the Commission, non-residential customers would no longer be able to make payments using credit and debit cards.

Southern Pioneer will still incur charges from its software provider for processing credit and debit card transactions. As proposed in [Docket 18-SPEE-241-TAR](#), these costs will no longer be paid by the individual making the payment, but instead will become part of the utility's overall cost of service

and will be recovered from all Southern Pioneer residential ratepayers in rates. However, the company reports that it can negotiate a lower cost per transaction than \$3.95, which will lessen the overall processing cost. CURB has intervened, and wants to fully investigate the rate impacts of socializing the cost of credit card transaction fees to all Southern Pioneer ratepayers. Standby for updates.



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CURB PUBLIC SERVICE Series – Public Hearing Tips

We here at CURB encourage you to attend public hearings or meetings that involve your utility services or consumer rights. Please remember all public hearings are recorded. We offer the following tips:

- When speaking to the Commission, please stand, speak clearly into the microphone, and state your name and address for the recorded record.
- Be respectful to others and refrain from disruptions.
- Please silence your cell phone or beeper.
- Keep comments constructive.
- Be considerate of others who wish to speak by limiting your comments to a reasonable length.

For more information about public hearings and how to file comments, visit **YOUR OPINION MATTERS** on the KCC website. Learn more about CURB at curb.kansas.gov.

We're on the Web!

curb.kansas.gov



ABOUT CURB

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, and states its mission is "to zealously represent the interests of residential and small commercial utility ratepayers before the Kansas Corporation Commission and the Kansas legislature."