

CURB: THE CITIZENS' UTILITY RATEPAYER BOARD OF THE STATE OF KANSAS



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES APR. 2015

KCPL requests \$67.3M rate increase

On January 2, 2014, Kansas City Power & Light filed an application for a \$67.3 million base rate increase. Based on a capital structure comprised of 50.48% equity, KCPL is seeking a return on equity of 10.2%, which would result in an overall rate of return of 7.94%.

The primary driver behind the rate increase request is the environmental upgrade project at the La Cygne generation plant, which is co-owned with Westar Energy. The project was required if La Cygne was to meet air quality regulations. The project is scheduled to be completed in June 2015, and KCPL is requesting recovery of its investment.

Other costs prompting the increase request were costs related to repairs and outage costs at the Wolf Creek nuclear plant, and the costs related to installing electronic meters and the computer infrastructure that supports them, as well as increased expenses for "cybersecurity" measures.

In addition to requesting this rate increase, KCPL is requesting that the monthly residential surcharge be increased to \$19.00.

The company estimates that a typical residential customer will see an average monthly increase of between \$11.00 and \$12.00. Small commercial customers will see an average monthly increase of almost \$30.00 per month. Overall, base rates will increase about 10.5%.

KCPL is also requesting several surcharge or cost recovery mechanisms that will ensure that the company will receive faster and complete recovery of their costs from customers.

First, KCPL would like to implement a Transmission Delivery Charge, or TDC. The company's costs relating to transmission would be passed through to customers in the surcharge, which would be trued-up annually. Currently, KCPL's transmission costs are bundled in base rates. Westar Energy already uses a TDC to recover transmission costs.

KCPL is requesting to recover the cost of replacing its current fleet of electronic meters with so-called "smart meters". The proposal is to treat the costs as a regulatory asset to be recovered over ten years, and to include the unamortized balance in the rate base. It isn't clear as yet whether the company has offset its claim with replacement costs for these

meters that are already built into depreciation rates, or with any net salvage value of the meters. Our consultants are looking into these concerns.

CURB certainly opposes the inclusion of these costs in rates; this is the second round of meter upgrades for KCPL in recent years, resulting in a considerable amount of stranded costs that the utility expects customers to pay. We're looking into whether KCPL made a prudent decision to replace one type of electronic meter with a more advanced model before the costs of the older meters were recovered.

KCPL would also like to track its "critical infrastructure" and "cybersecurity" costs and recover them in a surcharge. KCPL claims that it simply can't keep up with all the costs of keeping its system safe from hackers and terrorists, as well as the technological upgrades required by the Southwest Power Pool, which not only manages the operations of all of the transmission in this region, but also has created a day-ahead market for electricity in the region.

Additionally, KCPL claims that the pending invasion of the Emerald Ash Borer, a pest that has decimated ash trees *en masse* wherever it has taken hold

further east in the US, is a crisis that soon must be addressed in its territory. The company wants yet another tracker to recover its increasing costs of keeping trees and other vegetation clear of its power lines.

Apparently, some species of ash trees grow taller than power lines. Further, an ash tree that is killed by this borer is usually weakened at its base, and the entire tree tends to tip over rather than stay upright as many dead trees do. This poses a significant threat to any adjacent power lines.

KCPL would like to implement a vegetation management tracker to recover the increasing costs of addressing this threat to its system's reliability. Managing the problem can involve using insecticide at critical points in the lifecycle of the borer, preemptive removal of ash trees from right-of-ways and aggressive trimming of tree canopies that directly threaten critical power lines. This will entail a much more intensive program of trimming and removing trees.

Since KCPL contracts with vendors who handle the utility's vegetation management, the company claims that it needs a tracker mechanism to recover its costs because they are "out of its control." CURB will certainly be checking into the company's claim that it has no power to control costs when they are handled by an outside contractor.

We would also like to make sure that the costs of enhanced reliability are fairly allocated among the customers. Large commercial customers and industrial customers are the customers who have the most critical

need for improved reliability; they can lose thousands of dollars as a result of even a brief loss of power.

By contrast, the consequences of a brief interruption of power on residential customers are usually minor. While it can be irritating to come home to find all of the clocks in the house blinking "12:00", we doubt that residential customers want to pay higher electric rates in exchange for fewer blinking clocks. They might enjoy enhanced reliability, but they don't value it nearly as highly as large commercial and industrial customers do. If those customers are demanding ever-higher levels of reliability, they should be paying the costs of providing it.

Lastly, KCPL proposes to implement an Economic Relief Pilot Program for up to 1000 of its low-income customers who meet certain financial criteria. The program would provide a credit towards payment of their KCPL electric bills. KCPL proposes that customers and the company should share equally in bearing the costs of the program.

The company postulates that if the money it dedicates to the program is characterized as a charitable donation—rather than as a cost of service—then the prohibition in Kansas against lifeline rates would not apply, because the prohibition is based on the principle that one class of customers should not subsidize the costs of another class of customers. Since customers generally cover half the cost of the company's charitable donations—with shareholders picking up the other half—KCPL believes that the program would

pass muster under Kansas law. KCPL offers a similar program in Missouri, which permits lifeline rates.

CURB has engaged outside consultants to assist us in developing our positions in this docket. We will update you after our witnesses' testimony has been filed.

KCC Docket No. 15-KCPE-116-RTS

Westar seeks \$152M rate increase

On March 2, 2015, Westar Energy filed an application for a \$152 million base rate increase, a 7.9% overall increase in total revenue. Westar is seeking 10% return on equity (shareholder profit), but also claims that low interest rates have reduced its debt costs, so the overall rate of return on capital (mixing equity and debt) will be 7.99% if the request is approved. While the overall revenue increase is 7.9%, Westar is proposing to increase residential rates by 12.1%, or about \$9 per month for the average residential customer.

The primary driver behind the request is to recover the remaining costs of the \$1.2 billion environmental upgrade at the La Cygne generation plant. Westar owns 50% of the La Cygne plant, with KCP&L owning the other half. The Commission pre-approved the La Cygne upgrade in KCC Docket No. 11-KCPE-581-PRE. The project is scheduled to be completed in June 2015 and Westar is asking to put the final cost into rates.

Westar is also requesting cost recovery for expenditures at the Wolf Creek nuclear power plant.

The plant life has been extended from 40 years to 60 years, but this extension has required a higher level of investment in upgrades and maintenance.

Additionally, Westar is requesting a new surcharge on bills to recover the cost of a five-year, \$217 million program to upgrade circuits, line poles and telemetry on its distribution system.

Westar is also requesting an internal Grid Security tracker to preserve the utility's right to seek cost recovery for the grid security upgrades being required by the National Electric Reliability Council (NERC). The Grid Security tracker won't show up directly on bills after this case is completed, but the accumulated costs will go into rates during the next rate case. Westar did not provide an estimate of the cybersecurity costs, but did say the cost would be "substantial".

Like KCP&L, Westar is replacing its old residential meters with new digital meters. The new meters can be read automatically multiple times a day and customers can track their usage at a web portal on Westar's web site. Westar currently has about 100,000 of the digital meters installed. However, since Westar will be replacing perfectly good analog meters that are currently on Westar's books, Westar is requesting to recover about \$35 million over 5 years to cover the cost of the meters. Without the charge, Westar will have to eat the unamortized cost of the analog meters.

Westar is proposing to offer residential customers three rate options. Customers can choose between a traditional rate design,

a "stability" rate design and a "demand" rate design.

The traditional design looks just like rates today, except that Westar proposes to increase the monthly customer charge yearly for five years. Increases of \$3 per year will increase the current \$12 per month customer charge to \$27 per month over five years. So next year, traditional residential customers would have a \$15 a month customer charge, \$18 the following year, and so on.

Under the "stability rate", a customer will pay a \$50 per month customer charge, but will have lower volumetric rates. This may benefit large users of energy.

Finally, under the "demand" rate, customers will pay the normal monthly customer charge plus a "demand" rate based on the highest hourly usage of the customer each month, plus a reduced volumetric energy rate.

These different rates are voluntary, so no customer will be forced onto a different rate structure. However, depending on how and when a customer uses energy, and depending on whether a customer is willing to make a few changes in that usage, these alternative rate designs might provide some bill savings. CURB consultants are looking closely at these proposals.

Finally, customers who put new solar panels on their homes will be required to be on the "stability" rate or the "demand" rate, which helps ensure that solar customers pay a fair share of Westar's fixed costs.

Westar also seeks to offer

residential customers the ability to purchase solar energy. Westar proposes a small-scale community solar program where a limited number of customers can buy shares or panels in a small solar array. The cost to the customer will be 15.3 cents per kWh, for an estimated 107 kWh a month. The price will stay fixed over time, even if Westar rates increase above that level. If there is enough customer interest, Westar may move forward on an industrial-scale solar farm, allowing more customers to participate.

Westar proposes to decrease the cost of its existing RENEW tariff from 1 cent per kWh to .25 cents per kWh. The RENEW tariff allows customers to voluntarily pay extra each month for wind energy. Westar also proposes to allow large commercial and industrial customers to participate at cost on purchasing new wind energy.

CURB consultants will be looking closely at these proposals. There will be at least one public hearing on July 21, 2015 (more dates may be added), and the trial is expected to begin on August 17, 2015. The Commission must have its final Order out by October 28, 2015.

KCC Docket No. 15-WSEE-115-RTS

Call 211
for information about
obtaining assistance with
utility bills from agencies
and programs associated
with the United Way in
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Challenges to smart meters' safety to be heard by KCC

Two complaints filed with the Commission challenging the safety of smart meters being installed by Westar Energy and KCPL in their service territories have been consolidated into one docket.

In an order issued on March 19, 2015, the Commission said it was consolidating these dockets because they both “require common findings of fact related to the safety of what are commonly referred to as ‘smart meters’.”

Denese Roberts of Leawood alleges that KCPL’s smart meters are emitting dangerous levels of radiation. Jami Riehm of Lawrence alleges that the electromagnetic radio frequencies generated by several smart meters on a wall adjacent to her apartment are making her physically ill, and also alleges she is suffering harm from the radiation emissions from the meters. Both want the option to choose the old analog meters, and Ms. Riehm would like Westar to remove all of the smart meters in the vicinity of her apartment.

Electronic meters have been operating for several years in KCPL’s service territory. They are meters that provide digital metering that can be read remotely by the utility, rather than the analog meters with roll-over mechanical numbers. KCPL is replacing these meters with “advanced metering infrastructure” meters—AMI meters, also known as “smart” meters—that have additional features: they can pinpoint outages; they

record time-of-day usage; they can be remotely read, disconnected and connected; and they are capable of two-way communication with the utility.

Westar is also in the process of replacing its meters—both digital and analog—with AMI meters. Installation is complete in Lawrence and the company is currently installing them in Wichita and other areas of its territory.

Both utilities and their AMI suppliers tout the meters as being useful to customers and the utility in managing energy use, locating outages, and reducing the costs of meter reading, disconnections and reconnections.

CURB has received several calls from customers concerned about smart meters. Most of the callers are concerned about the health impacts of radiation emitted by the electronic radio frequencies used to transmit the data between the meter and the utility. Some have expressed concern about the security of the meters’ communications and fear that they pose a threat to their privacy. Most of them wanted to know if they had the right to keep the utility from installing a smart meter at their homes.

While CURB is sensitive to the concerns of these customers, the choice of meter that will serve their households is the prerogative of the utility under current rules and tariffs.

The Commission will consider the issues raised by Ms. Roberts and Ms. Riehm in this consolidated docket. Both Westar and KCPL have questioned whether the complainants have a legitimate complaint under cur-

rent tariffs, and question whether the KCC has jurisdiction to provide the requested remedies should it find the complainants have legitimate concerns. Both utilities have moved to dismiss their complaints. The Commission has yet to rule on their motions, but the language of the order consolidating the dockets implies that the Commission intends to address the complainants’ questions about the safety of AMI meters.

*KCC Docket Nos. 15-WSEE-211-COM
(Riehm) and 15-KCPE-265-COM
(Roberts)*

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Commission to consider whether to eliminate “knock and collect” rule for disconnects

The Commission opened a generic docket in early March to consider whether the utilities under its jurisdiction will be permitted to disconnect households remotely without making a final in-person effort at the premises to collect the overdue bill from the customer.

The longstanding requirement to make in-person contact with the customer before disconnection was instituted to ensure that the customer received actual notice of the pending disconnection and was given an opportunity to pay the overdue bill and forestall the disconnection.

The proposal to eliminate this requirement has been prompted by the advent of “automated metering infrastructure” (AMI) meters—the so-called “smart” meters—that enable the utility to connect and reconnect power to households from a remote location, as well as the advent of email, texts, laptops and cell phones, innovations that enable utilities to contact customers even when they are not at home and enable customers to pay their bills electronically.

When the rule was imposed, there was no such thing as remote disconnections of power. Since someone had to go out to the premises, anyway, fairness dictated that the employee should give the customer a last-minute opportunity to pay the bill to prevent the disconnection.

Further, there were no cell phones or laptops then, and no email or text messages, all of which now enable a customer to receive notice of pending disconnections when they are away from home. Finally, a last-minute payment was usually made in cash in those days. Now many customers can make a payment via email or telephone.

The KCC rejected a request a couple of years ago by Westar Energy to waive the “knock and collect” requirement” for customers served by AMI meters and substitute it with a message that would be conveyed to the customer via the pre-selected method of the customer’s choice: phone call, text message, email, etc. (Docket No. 13-WSEE-707-TAR). More recently, Westar asked for the requirement to be eliminated altogether for all customers. (Docket No. 15-WSEE-188-MIS).

In both dockets, Westar argued that the efficiencies gained by being able to remotely connect and disconnect power are eroded by the requirement to send a company representative to the premises to “knock and collect”, and since customers can now be contacted via email or text in addition to phone calls and routinely prevent disconnections by making last-minute payments via electronic means, there is no need to have a representative at the premises to give notice and collect a cash payment. Westar said that the availability of email, texts and cell phones enable the vast majority of customers to receive messages when they are away from home, so it proposed to substitute the “knock and collect” requirement with a me-

ssage to the customer via a pre-selected method of the customer’s choice.

In both dockets, the KCC rejected Westar’s request to waive the “knock and collect” requirement on several grounds. In the first docket, it noted that not all of Westar’s customers are served by AMI meters, and the Commission was hesitant to allow a waiver of the rule for some, but not all customers. As CURB had argued, few customers even know what kind of meter serves their homes and would not understand which set of rules apply to them.

The Commission was also hesitant to allow Westar to evade a requirement that all other regulated electric and natural gas utilities are required to meet. Further, the Commission acknowledged the value of CURB’s suggestion that considering eliminating such a longstanding customer protection should be done only after the Commission received input from customers and the public. Most changes to the original billing standards have been approved only after public hearings and an extensive comment period.

In the second docket requesting the Commission eliminate the “knock and collect” requirement for all Westar customers, the Commission rejected the request as premature, since not all of Westar’s customers are served by AMI meters and expressed the same concerns it had about Westar’s previous request. The Commission acknowledged that changes in utility infrastructure and the emergence of electronic communication devices may justify a

revision of the rule, but it indicated that it would prefer to consider eliminating the requirement in a generic docket that would apply to all the utilities subject to the rule.

In issuing its order opening the generic investigation, the Commission made all natural gas utilities and all electric utilities in its jurisdiction parties to the docket. The Commission proposed that the parties submit suggestions on how the investigation should proceed. Comments are due on April 13.

KCC Docket No. 15-GIMX-344-GIV

KCC unplugs KCPL's effort to include costs of car charging stations in rate increase

On February 9, 2015, Kansas City Power & Light filed a motion to file supplemental testimony in its rate case docket supporting a late-filed request to include the costs of KCPL's new "Clean Charge Network" in the proposed rate increase. The Network is a plan to install over 1000 electric vehicle charging stations in KCPL's service territories in Kansas and Missouri.

Simultaneously, KCPL also filed a request with the Commission to open a generic docket to investigate electric vehicle charging stations.

CURB and the Commission Staff both filed objections on several grounds to KCPL's request to include the late-filed supplemental testimony in the rate case. CURB also objected to KCPL's assumption that include-

ing the costs of the project in customer rates is acceptable because the company put the estimated costs of the project in schedules as "placeholders" for the costs.

Additionally, CURB objected to KCPL's proposal to open a generic docket to consider whether Kansas utilities should get involved in providing infrastructure to support all-electric vehicles that need charging stations if they want to go long distances.

Fortunately, in an order issued on March 31, the Commission agreed with CURB and Staff that addressing KCPL's late-filed testimony would unreasonably burden the other parties.

The Commission also soundly rejected KCPL's "placeholder" theory, echoing CURB's arguments that the costs purportedly included in the filing were unidentified and buried so deeply in the application that no one received actual notice that the estimated costs were included.

Further, the Commission found that opening a generic investigation wasn't merited—not only because the parties are dealing with two major rate cases and do not have time to address the issue at present, but also because generic dockets are generally limited to exploring topics that affect more than one utility or set of customers. KCPL is the only utility in Kansas that has proposed that customers pay for electric charging stations.

It's clear to CURB that the Clean Charge Network is not necessary infrastructure designed to serve KCPL customers; the Network would serve a very small community of electric car

owners, many of whom who would be commuters who do not even reside in KCPL's service territory. KCPL even touts the project as a way to increase sales—at a time when customers are also being required to pay the costs for load-reducing programs. This inconsistency should raise questions about the soundness of KCPL's approach to addressing environmental and energy-efficiency policies.

Although the Commission left it open for KCPL to re-file its proposal after the current rate case docket is completed, CURB is hoping that KCPL decides to drop the proposal altogether. It would be a waste of resources to devote more time to discussing this proposal, which on its face is clearly inconsistent with Kansas law that requires costs included in customers' rates to be reasonably related to the provision of service to its customers.

**KCC Docket Nos. 15-KCPE-116-RTS
(rate case) and 15-GIMX-345-GIE
(request for generic docket)**

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Westar seeks OK for transmission line near Manhattan

On February 20, 2015, Westar Energy filed an application for a siting permit for a transmission line that will run from its Jeffrey Energy Center generation plant near St. Marys to a substation near Manhattan. The line is a replacement for an existing 230kV line and will continue to be operated at 230kV, but will be constructed so that it can carry 345 kV at some point in the future. The Commission is limited to determining whether the line is necessary and whether the proposed route is reasonable.

The KCC must approve or deny a siting permit application within 120 days, which leaves limited time for interested parties to examine the utility's application and respond with any concerns. This accelerated schedule for siting permits discourages full participation in these dockets.

The costs of transmission projects are passed through to customers in the Transmission Delivery Charge, which is a line-item surcharge on customer bills that passes through the utilities' costs of building and operating its transmission grid. In 2014 alone, customers received a \$43 million increase in annual rates attributable solely to Westar's transmission costs.

As is routine with siting dockets, in the months preceding its filing Westar sent out notices to landowners and communities in the area of the proposed route and invited them to a series of open houses to discuss concerns

and potential siting problems with affected landowners and communities, as well as interested public entities such as environmental regulators and interest groups. The open houses have helped to ease public concerns about proposed transmission projects by providing a forum in which interested members of the public can discuss the project face-to-face with Westar personnel who are designing the project, and have been useful in helping the company select proposed routes that minimize impacts on the environment and do not unnecessarily impair the economic use of the lands affected by the route.

Generally, by the time a utility applies for its siting permit, it has made contact with the majority of people who want to raise concerns about the project, which has helped reduce the number of late-filed proposals for changes to the route that were not included in the original legal notices provided to landowners.

The Commission held a public hearing in Wamego on March 24 to hear public comments on the proposed line. Attendees heard presentations from Westar, the Commission Staff and CURB, followed by a session where the Commission listened to formal comments from the public.

The Commission's evidentiary hearing is scheduled for May 6, and the Commission must make its decision whether to grant the siting permit by June 19, 2015.

KCC Docket No. 15-WSEE-365-MIS

Tentative agreement reached on Empire Asbury rider

CURB, the Commission Staff and Empire District Electric Company have reached a tentative agreement to allow Empire to implement a short-term line-item rider to begin recovering the costs of a major environmental retrofit at the utility's Asbury coal plant.

The project is expected to be completed and in service this spring, at which time the costs are eligible for recovery in rates. Empire also expects to complete a major new turbine project at its Riverton plant during the last half of 2016. The company wants to begin recovering its investment in these projects as soon as possible.

Empire has the option to file two back-to-back rate cases, one when the Asbury project is completed, and a second when the Riverton project is completed. However, major rate cases are expensive, and Empire has fewer than 10,000 customers in Kansas to recover the costs from.

The concern about excessive rate case costs prompted CURB, Staff and Empire to discuss other options. We eventually settled on a proposal to allow Empire to implement a short-term rider to begin recovering the Asbury costs from customers when it goes on line. This would eliminate Empire's need to file a major rate case in 2015. Empire would wait to file its rate case until after the Riverton plant project is completed sometime in late 2016.

When the rates approved in the 2016 rate case go into effect, the costs of the Asbury plant will be rolled into base rates and the line-item surcharge would be removed from customer bills.

CURB is generally a firm opponent of single-subject line-item surcharges, but in this case, the prospect of Empire's customers having to foot the bill for two major rate cases in two years was daunting. Unfortunately, rate cases of smaller utilities like Empire (with fewer than 10,000 Kansas customers) can cost almost as much as the rate cases of larger utilities with over 600,000 customers like Westar. But the costs of Empire cases are spread over a much smaller customer base. This temporary rider will eliminate the cost of one rate case, which was about \$38 per customer in the last case.

First of all, before Staff and CURB would agree to this proposal, we asked Empire to provide evidence to us that it is not earning more than its authorized rate of return, which would indicate that the company would not be harmed by a delay in recovering the Asbury costs. The company provided the evidence we requested. After further talks, Staff filed a Report and Recommendation with the Commission on March 16 outlining the circumstances and our proposal to address them. Empire and CURB were both involved in the development of the filing, and all three parties agreed with its terms, including an agreement not to request that the Commission hold an evidentiary hearing, which would only increase the costs.

The rider will be considered an interim rider, and will be subject to true-up and refund. The costs placed in the rider will be limited to costs related to the Asbury environmental project. At the time that these costs are rolled into rates, the revenue requirement will be recalculated and any excess recovery over the Commission's authorized rate of return will be refunded to customers. The rider will be removed from customer bills when the new rates go into effect.

Additionally, Empire agreed with CURB and Staff that customers should be given notice and an opportunity to comment on the rider proposal. If the Commission approves our proposal, a notice will be sent to customers describing the proposal and the deadline for comments.

We are awaiting the Commission's order; we'll keep you posted.

KCC Docket No. 15-EPDE-233-TAR

Westar to return \$33.5M to customers through ACA reduction

In its annual filing to true-up Westar Energy's energy cost adjustment (ECA) to actual costs, Westar said that the company over-collected about \$33.5 million from its customers through the ECA in 2014.

The ECA is intended to recover Westar's fuel costs for producing energy sold to customers. The monthly surcharge on customer bills is based on Westar's projected costs, and

then, the surcharge is trueed up later to the actual costs.

These March true-up proceedings (known as Annual Cost Adjustments or ACA filings) are intended to ensure that neither the company nor the customers benefit from any differences in what is collected from customers for fuel and what the company actually spent. If the company collects too little from customers, the following year's kilowatt/hour price of fuel will be adjusted upward so that the company is made whole; if it collects too much, then the price will be adjusted downward to credit customers for the over-collection.

Westar noted that several factors combined last year to create the \$33.5 million disparity between what was collected and what was spent on fuel. The two primary factors were that a court ordered the Department of Energy to cease collecting from utilities a 9 cents per MMBtu nuclear disposal fee, which reduced Wolf Creek's fuel costs by about 15%, and Wolf Creek also operated for more hours than it had in the previous year, which reduced the number of hours that its more expensive-to-run coal and gas plants operated during the year.

Westar proposes to correct the imbalance by reducing the ACA factor by 0.1586 cents per kilowatt/hour for the coming fiscal year, which is about an 8% reduction of last year's price.

The Commission Staff and CURB are currently vetting Westar's application. These ACA proceedings are usually resolved after Staff files a report and recommendation. If CURB or the company disagrees with

Staff's filing, then they will file their own recommendations. Once the parties have spoken or concurred with Staff's report, then the Commission usually issues an order. Unless one of the parties or the company objects to the Commission's order, the new ECA charges will go into effect soon after the order is issued.

Although a reduction of \$33.5 million in fuel costs for the coming year should be good news for customers, that simply means we paid \$33.5 million too much last year. That is the difficulty with using projected costs to determine the fuel price to be charged to customers, rather than setting the price based on a retroactive look at actual costs.

KCC Docket No. 15-WSEE-421-ACA

Southern Pioneer sub-transmission case is settled

On March 17, 2015, a unanimous settlement of Southern Pioneer's request for an increase for its 34.5kV sub-transmission service was filed with the Commission. Southern Pioneer, the Commission Staff, CURB, the Kansas Electric Power Cooperative (KEPCo), and the Kansas Power Pool (KPP) were signatories to the agreement.

The costs of Southern Pioneer's sub-transmission service on its 34.5kV lines to retail customers and third-party customers are not included in the company's base rates. CURB's

main concern in the docket was to ensure that residential and small commercial customers were not allocated more than their share of the costs.

Southern Pioneer requested an increase of \$1.816 million in the 34.5kV revenue requirement. Staff recommended a slightly smaller increase of \$1.803 million. KEPCo offered testimony on the billing standards used to derive the rate, and proposed modifications to the Monthly Billing Demand definition in the Local Access Delivery Service tariff. KPP raised a number of issues related to the same tariff, and also offered modifications to KEPCo's proposal. CURB did not file testimony.

The settlement adopted Staff's revenue requirement, and allocated \$667,867 of the increase to third-party local access customers and \$1,136,042 to retail customers. The resulting local access charge rate will be \$4.51/kW. The parties were able to reach a consensus on the language of the tariffs, and the company agreed to facilitate discussions with KPP regarding the administration of the local access charges applied to the Greensburg Wind Farm.

The parties also agreed that if KPP cannot secure a resolution to its concerns from Southern Pioneer and Mid-Kansas, then KPP is free to file a complaint, and Southern Pioneer and Mid-Kansas are free to make any arguments in defense of the complaint.

KCC Docket No. 15-SPEE-161-RTS

Westar seeks approval of EE programs and lost revenues

On March 18, 2015, CURB filed testimony recommending the Commission deny Westar Energy's proposed energy efficiency programs, as well as its request to recover lost margins from the energy efficiency programs.

Westar filed its application on October 28, 2014. Westar requested Commission approval of three new energy efficiency programs: Small Business Lighting, Home Energy Audit, and Targeted Energy Efficiency. In addition, Westar requested Commission approval to "sunset" its existing WattSaver program, which would freeze enrollment of new customers in the program and halt the replacement of any WattSaver thermostats that remain in customer's homes.

In addition to the programs, Westar requested permission to recover the revenue it loses from decreased sales attributable to energy efficiency programs. If this were approved, Westar would be allowed to recover from ratepayers the non-fuel portion of each kWh not sold to customers attributable to an energy efficiency program. For example, if the Commission approves lost margin recovery, then if Westar provides to a business LED lightbulbs that use 100 kWhs less than regular lightbulbs, Westar would then be allowed to recover approximately \$0.09 per kWh from all ratepayers.

CURB recommended the Commission deny Westar's application for approval of new energy-efficiency programs for many reasons, but primarily because none of Westar's proposed programs are cost-effective. Because the programs are not cost-effective, their cost will increase rates more than the value of any future benefit that customers might receive from an energy efficiency program. If approved, customers' bills will increase without customers receiving any benefits as a result of the expenditure.

CURB recommended that the Commission look closely at Westar's request to "sunset" the WattSaver program. The WattSaver program, approved in 2009, has cost ratepayers \$24 million. The program has provided almost 60,000 residential customers new thermostats that could be cycled during peak demand hours. A demand response program, the WattSaver program was intended to decrease load during the hottest days of the year, which would help reduce the need for Westar to purchase additional power in the marketplace.

However, despite the simplicity and seemingly easy use of the WattSaver program, Westar has only used the program to shave peak usage a total of 14 times since 2009, and only three times since 2012. Further, even if the program is "sunsetting", the WattSaver program will continue to cost customers about \$1.5 million each year.

CURB recommended the Commission evaluate the Watt-

Saver program to determine whether the WattSaver program, by shaving demand during peak demand periods, is effective in saving consumers money by helping Westar reduce its electricity purchases during peak demand periods when market prices are higher. If it is effective, then the Commission should order Westar to use the program. If, on the other hand, the Commission determines that Westar spent \$24 million on a program that it doesn't really need and never intends to use, then CURB recommends the Commission order Westar to refund to consumers the \$24 million that it spent on the WattSaver program.

CURB also recommended the Commission deny Westar's request to recover lost margins from its energy efficiency programs. There is clear Commission policy for denial of lost revenue recovery mechanisms. However, despite this policy, CURB pointed out that the Commission has allowed Westar to recover lost margins from a single energy efficiency program. In that one instance, Westar recovered 118% more than its estimated lost margins and has yet to perform any evaluation to determine if it actually lost one single kWh in sales. Because of Commission policy and Westar's single failed experiment with lost revenue recovery, CURB recommended the Commission deny Westar's request.

Westar will have an opportunity to file rebuttal testimony on April 10, 2015. If necessary, an evidentiary hearing will be

held on April 29-30, with a Commission order due out no later than June 25, 2015.

KCC Docket No. 15-WSEE-181-TAR

Southern Pioneer seeks rapid approval of Peak Time Rebate

On February 16, 2015, Southern Pioneer Electric Company filed an application requesting authority to operate a Peak Time Rebate program during the summer of 2015. The proposed Peak Time Rebate program would be available to 100 of Southern Pioneer's residential customers, and would only be offered from June 1 through August 31, 2015.

Southern Pioneer's proposed Peak Time Rebate program is a demand response program that encourages customers to decrease their electricity consumption during peak hours of the day. According to the application, Mid-Kansas Electric Company—which provides generation and transmission services to Southern Pioneer—is predicting that it will need additional generation beginning in 2019 because of forecasted load growth and the expiration of its purchase power agreements. Mid-Kansas and Southern Pioneer are both interested in finding ways to push the need for costly new generation plants farther into the future.

Southern Pioneer is interested in offering the Peak Time Rebate program as a pilot program to see whether customers will re-

duce consumption enough to help offset some or all of its future capacity needs. Demand response programs, like the proposed Peak Time Rebate program, can be effective least-cost resources that help a utility meet its load with its current capacity and can be implemented at a lower cost than building a new power plant or purchasing power from third parties.

According to the application, residential customers who participate in the Southern Pioneer Peak Time Rebate program will receive a notification of peak demand times. Customers will then have the option to curtail their usage during these times. If customers are successful in reducing their electricity consumption during the identified times, customers will receive a cash incentive of \$0.75 per kWh reduction when compared to historical baseline consumption. Southern Pioneer predicts that the average cash rebate for participants who are able to reduce consumption during peak times will be \$13.50.

Customers who participate in the Peak Time Rebate program during the 2015 pilot but are not able to reduce consumption will not be harmed. There will be no penalty for failing to reduce their electricity usage during peak times. At the end of the pilot program, all participants will receive a cash incentive of \$10 or \$0.75 per kWh reduction they achieved, whichever is greater.

The cost of the proposed Peak Time Rebate program is estimated at less than \$40,000 and would be rolled into Mid-Kansas' overall wholesale power costs, which are a component of

the costs included in Southern Pioneer's Energy Cost Adjustment.

At the end of the pilot period, Southern Pioneer and Mid-Kansas will evaluate the results of the Peak Time Rebate program and determine whether Southern Pioneer will seek Commission approval to make the demand response program a permanent offering to customers.

No procedural schedule has been established for this docket. However, because Southern Pioneer wants to begin offering the program on June 1, 2015, CURB expects the Commission to issue a ruling soon.

KCC Docket No. 15-SPEE-357-TAR

Westar seeks \$7.1M transmission increase

On February 19, 2015, Westar Energy filed a request to increase the 2015 Transmission Delivery Charge (TDC) on its customer bills by \$7.2 million. The TDC charge recovers all of Westar's transmission costs. Since Westar and the members of the Southwest Power Pool have been building lots of new transmission over the last several years, Westar increases its TDC annually to recover increased costs.

According to the statute (K.S.A. 66-1237) that allows utilities to put a TDC charge on customer bills, Westar can begin charging the increase within 30 days. After review, the Commission can order any changes to the rate and can order refunds, if needed.

On, March 26, 2015, the Commission issued an Order allowing Westar to begin charging

the increased TDC rate subject to refund. KCC Staff and CURB will review the filing details. If any changes are needed, a subsequent order will be issued.

KCC Docket No. 15-WSEE-366-TAR

Westar requests \$10.86M environmental surcharge increase

On March 31, 2015, Westar Energy filed a request to increase its 2015 Environmental Cost Recovery Rider (ECRR) charge on customer bills by \$10.86 million. Westar estimates the impact to a residential customer using 900 kilowatt-hours (kWh) per month will be a 55 cent bill increase. A small business customer using 10,000 kWh per month would see a bill increase of about \$5.87.

The ECRR is a KCC-created charge on customer bills to allow Westar to recover expenditures related to air emission upgrades at Westar's generating plants required by the Environmental Protection Agency. Westar can recover the costs of certain categories of these environmental expenditures each year through the ECRR rather than having to wait to file a general rate case.

The KCC Staff and CURB will review the filing, and the Commission is expected to issue an Order on the request in late May.

KCC Docket No. 09-WSEE-737-TAR

Settlement in Atmos contract dispute

On February 23, 2015, Atmos Energy, KCC Staff and CURB filed a proposed settlement agreement ending a year-long dispute over how Atmos purchases its natural gas supply and whether Atmos has an obligation to seek the lowest-cost supply on behalf of customers.

In November 2013, Atmos filed an application seeking to share with its customers 50% of any savings it could generate by changing its purchasing arrangements.

However, in April 2014, after meetings with KCC Staff, Atmos filed an amended application seeking to keep 100% of any savings generated from purchasing changes, and also agreeing to a plan to build several capital expansion projects requested by KCC Staff.

CURB objected to this plan. After a trial, the Commission agreed with CURB and rejected the Atmos/KCC Staff proposal.

Atmos asked the Commission to reconsider its decision. The Commission agreed to keep the docket open and ordered the parties to meet, although the Commission did not modify its decision. *(For a more complete discussion of the case, see the August 2014 CURBside).*

During negotiations, Atmos informed the parties that it has secured a discount on one of its upstream pipeline contracts. The contract will generate substantial savings for Atmos's customers. Atmos asked to share in the savings. After negotiations, Atmos agreed to drop its outstanding

requests and close the case, and KCC Staff and CURB agreed to allow Atmos to retain 22% of the contract savings.

Under the new contract, Atmos will save about \$1.78 million per year. Under the proposed settlement, Atmos customers will receive approximately \$1.39 million per year of the savings and Atmos will retain about \$400,000 per year. The contract is for five years.

The proposed agreement, if approved, will end all litigation in the case. We are awaiting the Commission's decision on the proposed settlement.

KCC Docket No. 14-ATMG-230-TAR

Commission investigates creating new pipeline surcharge

On March 12, 2015, at the request of the KCC Staff, the Commission opened an investigation into the question of whether Kansas Gas Service Company, Black Hills Energy and Atmos Energy should be allowed to create a new surcharge on customer bills to recover the cost of accelerating the replacement of aging infrastructure. The new KCC-created surcharge would be in addition to the existing legislatively-created Gas System Reliability Surcharge (GSRS). The GSRS allows gas utilities to increase rates up to 40 cents per year to recover the cost of safety related infrastructure improvements.

Atmos Energy and Black Hills both requested new mechanisms to recover the cost of infrastructure improvements in

their 2014 rate cases. At CURB's urging, the Commission rejected Atmos' request, stating that if the company needed additional dollars between rate cases for infrastructure improvements, the utilities should first seek an amendment of the existing GSRS surcharge at the legislature. Black Hills subsequently withdrew its request.

In its March 12 order, the Commission ordered the gas utilities, KCC Staff and CURB to meet and discuss potential changes to the GSRS law. After several productive meetings, the parties presented their ideas to the Commissioners at an open work session. The Commission rejected the proposals and directed KCC Staff to draft a memo to open a generic docket at the KCC to investigate infrastructure proposals.

The KCC Staff memo the Commission cited as the impetus for opening the infrastructure investigation suggests that the Commission seek comments on seven questions, including whether creating an infrastructure replacement surcharge is in the public interest, whether the Commission has legal jurisdiction to create such a surcharge, whether there are benefits to the utility or deterrents to the public from creating such a surcharge and what parameters should be tracked to demonstrate increased safety if there is a surcharge.

Staff also proposes eleven parameters that will be included in its proposed infrastructure mechanism, including the requirement that accelerated replacement of infrastructure be demonstrated, incremental in-

vestment be demonstrated, some agreement that utilities will not file new rate cases for a defined period of time and that maintenance expenses will be tracked. Staff also proposes accounting adjustments that would reduce the cost impact on customers for infrastructure replaced under the program.

In its March 12 order, the Commission determined that the parties will submit legal briefs first, before addressing the specifics of the KCC Staff proposal. If the Commission determines that it has the legal authority to implement a new infrastructure mechanism, then the Commission will request comments on the KCC Staff proposal.

CURB has argued that the legislature spoke to this issue when it created the GSRS. And by placing the 40 cent per month cap on the annual GSRS increase, the legislature balanced the utilities' need to accelerate cost recovery for safety-related infrastructure replacement and the consumers' need to avoid unrestricted rate increases. If a utility can simply rebuild its entire distribution system and charge the cost directly to customer bills each year, there ceases to be any protection for customers. The infrastructure replacement program simply becomes an investment vehicle for the utility to turn capital into shareholder profit through annual surcharge increases.

CURB does not believe the Commission can, or should simply create a new infrastructure surcharge. Doing so overrides the balance struck by the legislature and allows the KCC to attempt to overrule the existing

Kansas law. CURB will file its comments with the Commission in the docket. There is no timetable for a Commission decision on the issue.

KCC Docket No.15-GIMG-343-GIG

2015 Legislative Session Update

A quick update on a few bills of interest in the legislature:

SB 261: If SB 261 passes, all residential electric, natural gas and water bills will go up by 6.15%. The bill will remove the current state sales tax exemption on residential utility bills. Currently, residential electric, natural gas and water bills are exempt from the 6.15% state sales tax. Residential customers do pay local county and city taxes as well as local franchise fees. The sales tax exemption was enacted in 1979 by Governor Carlin as a way to reduce ever-increasing utility bills. It is estimated that removing the sales tax exemption would increase state tax revenue by \$175 million. CURB testified against the bill in the Senate Tax Committee hearing. The legislature is adjourning for recess until late April, so it will address its budget and revenue bills after the April recess. It will be late in the session before we know whether the sale tax exemption is removed.

SB 253 and HB 2373: Both bills will eliminate any new requirements under the Kansas Renewable Energy Standards act (RES). Under current

law, utilities must obtain 15% of peak demand from renewable sources in 2016 and 20% of peak demand from renewable sources after 2020. Both bills eliminate these requirements. Both bills have had hearings in committee, but at this time, neither has advanced out of committee. CURB did not take a position on the bills. But, Westar Energy, Kansas City Power & Light and Empire District Electric Company already have renewable energy on their systems at the levels required by the RES, and all indicate they intend to increase purchases in the future. While neither bill has made it out of committee, both are still alive, so anything can happen after the April recess.

HB 2233, SB 151 and SB 170. All three bills seek to restrict the authority and actions of the Kansas Department of Health and Environment (KDHE) and the Kansas Corporation Commission (KCC) in response to the Environmental Protection Agency's (EPA) proposed rules requiring reductions to carbon dioxide output from electric generation facilities--the so-called Clean Power Plan. HB 2233 and SB 151 are twins, and SB 170 is a different bill but addresses the same issue. KDHE implements EPA emission plans for the state as a whole, while the KCC has regulatory jurisdiction over the state's largest utilities and utility plants. These bills are a jurisdictional fight between the two agencies and the legislature, which wants veto authority over any plan that might be proposed by the agencies to comply with

the EPA rules. HB 2233 seems to be the bill that is moving. It has been amended in committee, re-amended on the floor of the House, sent to the Senate and, as of this writing, amended again by the Senate Utilities Committee and sent to the Senate floor. The bill could pass after the April recess.

Consumer Counsel's



Corner

We're busy in the Corner these days. As you can see from this issue of the CURBside, there is a lot going on. Most pressing right now are the KCP&L and Westar rate cases. To have our two largest utilities in for rate cases at the same time is certainly a challenge. And both utilities have some fairly complex issues to address. And in spite of our vigorous advocacy at CURB on the customers' behalf, I have to tell you up front: Your rates are going up. No doubt about it. I think we can just put that sign on our door. The statement will be true for years to come.

The majority of the increase for both utilities is because they are completing a \$1.2 billion environmental upgrade on the La Cygne coal plant. The Commission pre-approved this retrofit in 2011. Unfortunately, the Environmental Protection Agen-

cy (EPA) is in the process of issuing new rules requiring utilities to reduce carbon dioxide emissions from power plants. The La Cygne upgrade may yet prove to have been a poorly-timed idea, but regardless, with Commission pre-approval already a done deal, customers will pay the increased cost in rates.

Both utilities are also upgrading their Wolf Creek nuclear power plant. Wolf Creek has proven to be a good plant, and the upgrades are needed to extend its useful life. These are worthwhile expenditures, but higher rates are the result.

Both utilities also want new surcharges. KCPL wants a Transmission Delivery Charge (TDC), creating a new line on customer bills to collect its increases in transmission costs every year. Westar wants a new surcharge to recover \$200 million dollars of upgrades to the distribution system. And both utilities want special accounting treatment for upgrades necessary to meet new cyber-security standards.

Both utilities are also replacing their existing residential meters with newer digital meters. And both utilities want special accounting treatment to recover the cost of the perfectly good existing meters they are replacing.

And both utilities want customers to pay more each month just for being hooked up to each utility. KCPL wants to increase the residential customer charge from \$10.71 to \$19.00 per month, and Westar wants to increase the residential customer charge from \$12.00 to \$27.00 a month, although Westar pro-

poses to make the change over five years. Westar also is offering a \$50.00 per month customer charge option.

Both utilities are asking for more than 10% shareholder profit, with KCPL at 10.2% and Westar at a straight 10%. And both utilities are asking permission to file another abbreviated case next year.

You get the picture? This trend will go on and on and on and on... Carl Sagan comes to mind here, because we're talking *billions and billions*. Not in stars. Dollars. Your dollars.

In fact, Westar plans to spend \$3.46 billion in capital expenditures between 2015 and 2019 and KCPL's parent company, Great Plains Energy plans to spend \$3.2 billion in capital expenditures between 2014 and 2018. KCPL's Kansas utility is about 30% of Great Plains, so KCPL Kansas will see increases.

And here's the kicker: these numbers do *not* include the cost of meeting the new EPA carbon rules. In comments to the EPA, the KCC projected the cost of meeting the new EPA requirements at \$8.75 billion (on a range from \$5 billion to \$15 billion). The Commission predicts that if the EPA proceeds with its plan, the "Commission fully expects Kansas ratepayers will face a future of exorbitantly high electricity costs and unreliable electric service." That's pretty unsettling to think about, if not downright scary.

To be fair, the KCC makes good points in its comments to the EPA. But if the spending necessary to meet the EPA requirements will lead to *exorbitantly high* electric rates,

how do we describe the rates that will ultimately result from Westar's and KCPL's proposed spending plans for projects *not* included in those billions of EPA-related expenditures? *Very exorbitantly high?*

And what's the word for rates that include *both* the EPA and non-EPA related spending requirements added together?

Forget the superlatives: The word *disaster* comes to mind.

These are tough issues for policy makers and will certainly present the KCC with difficult choices. We'll do our best to keep the increases as small as possible, but ultimately, electric rate and bill increases will be the norm for years to come.

—*Dave Springe*

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