

CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

January 2022



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

UPDATE: Kansas Utilities Are Developing Financial Plans in Response to Record Natural Gas Prices Incurred During Winter Storm Uri

From February 7–19, 2021, Kansas and many other states throughout the Midwest experienced an unprecedented weather event with Winter Storm Uri. Prolonged stretches of cold temperatures, record-high natural gas prices, equipment failures, and demand for electricity led to historic wholesale electricity prices. In response to these weather conditions and supply constraints, Governor Laura Kelly issued a State of Disaster Emergency Declaration on February 14, 2021.

The KCC issued an Emergency Order in Docket 21-GIMX-303-MIS directing jurisdictional utilities to do all things necessary and possible to ensure natural gas and electricity service continued to be provided to their customers. The Commission has opened specific dockets for each utility as follows:

Docket	Service	Utility
21-EKME-329-GIE	Electric	Evergy KS Central Evergy KS Metro
21-EPDE-330-GIE	Electric	Empire
21-SPEE-331-GIE	Electric	Southern Pioneer
21-AEGG-335-GIG	Gas	American Energies
21-ATMG-333-GIG	Gas	Atmos Energy
21-BHCG-334-GIG	Gas	Black Hills
21-KGSG-332-GIG	Gas	Kansas Gas Service

CURB has intervened in each of the above dockets and is reviewing filings and supplemental data as such becomes available.

In regards to concerns over the pricing of natural gas during this event, the Office of the Attorney General of Kansas (“AG’s Office”) has been granted intervention in these dockets. The AG’s Office is investigating all aspects of the Kansas natural gas system to determine whether the extreme costs incurred during the Winter Event were the result of profiteering from a disaster, including

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MAJOR CASES WE ARE CURRENTLY FOLLOWING:

- **COVID-19 DOCKETS**
- **WINTER STORM URI DOCKETS**
- **19-KCPE-096-CPL**
Evergy – Integrated Resource Plan and Capital Plan
- **21-EKME-088-GIE**
Evergy – Sustainability Transformation Plan
- **21-EPDE-444-RTS**
Empire – Abbreviated Rate Case
- **22-EKCE-141-PRE**
Evergy – Retirement of Coal Generation for Solar
- **22-EKME-254-TAR**
Evergy – Energy Efficiency Programs

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other deceptive and unconscionable conduct in violation of the Kansas Consumer Protection Act. The Federal Energy Regulatory Committee (FERC) is also investigating these issues. Proposed plans from Kansas utilities have included provisions for any relief resulting from these federal or state investigations to be distributed to utility customers.

Known plan details, by utility, are described below:

ELECTRIC UTILITIES

Evergy Kansas Central (“EKC”) filed its plan on April 1, 2021, requesting recovery of approximately \$146.8 million of extraordinary event costs over 24 months beginning April 2022. This amount would accrue at a carrying charge of 8.32% which is equal to the Company’s weighted average cost of capital (WACC). EKC estimates each customer’s share of these costs to be \$4.69 per month and will recover these costs through its Retail Energy Cost Adjustment.

Evergy Kansas Metro (“EKM”) incurred \$47.5 million of extraordinary event costs which they net against off-system sales of \$82.2 million resulting in a regulatory liability of \$44.6 million. After netting all costs, EKM will return \$43.9 million to customers reducing the average residential customer bill by approximately \$9.70 per month for twelve months.

On January 21, 2022, Kansas Corporation Commission Staff (“Staff”) filed its Report and Recommendation (“R&R”) in which they recommended approval of both EKC’s and EKM’s cost recovery plans with several exceptions. Staff recommends that Evergy should lower the rate at which carrying costs accumulate on the balance of Winter Storm Uri costs from the WACC to a number that balances the interests of both shareholders and customers. Secondly, Staff stated that the revenue gained from EKM’s off-system sales should be distributed to customers over the same two-year period that EKC is collecting its incurred extraordinary costs, thereby lowering the overall financial impact to Evergy of carrying these balances. This would provide an equitable approach for the customers of both operating utilities.

Empire has not yet filed its plan for recovery of its extraordinary event costs.

Southern Pioneer filed a plan on March 10, 2021, requesting recovery of approximately \$17 million of estimated extraordinary event costs over 36 months. Each customer’s share of the costs will be computed based on their individual kWh usage during the month of February 2021. Carrying charges would accrue at a rate of 2.889% applied to each customer’s individual balance. A residential customer will experience an average increase of approximately \$7.89/month for 36 months. New customers to Southern Pioneer and customers who did not record any electricity usage during February 2021 will not be assessed a share of the costs under the plan.

CURB filed its response to Staff’s R&R on December 30, 2021. CURB reviewed the financial plan, associated data requests, testimony, and the R&R from the perspective of residential and small commercial rate-payers. CURB concluded that Southern Pioneer prudently incurred the extraordinary costs in order to maintain service to homes, businesses, and critical use facilities. Southern Pioneer’s efforts to provide continued service with minimal interruptions appear to be reasonable during the Winter Event because service was maintained in

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spite of supply and operational problems experienced in the region. The plan contains provisions that reasonably mitigate the financial impact on ratepayers. The 2.889% carrying charge reflects the actual rates Southern Pioneer pays on this debt while it is recovered over 36 months and the minimum required revenue level to comply with existing loan covenants. The extended repayment period benefits ratepayers by lowering the monthly bill increase compared to Southern Pioneer's usual method of collecting fuel costs over one year. Under the plan, customers will have the option of paying off their share of the extraordinary costs as a one-time payment, without accelerating the accrual of carrying charges through the remainder of the repayment period. Customers will also receive the proceeds of any civil judgment or profit disgorgement in the event that any ongoing investigations into matters of price gouging during Winter Storm Uri. The Commission has set the matter for hearing on February 11, 2022, via virtual meeting. The public may view the hearing via the KCC's website through its YouTube channel at: <https://kcc.ks.gov/>.

NATURAL GAS UTILITIES

American Energies (AEGS) is a very small jurisdictional natural gas utility, serving only 200 customers in Kansas. AEGS filed its plan as part of a settlement with KCC Staff and CURB on June 18, 2021. On July 8, 2021, the Commission approved the settlement agreement. AEGS is authorized to recover up to \$317,913.82, inclusive of carrying charges. Each customer's share of the costs is computed based on their kWh usage during the month of February 2021 and will be charged monthly over a period of up to 60 months, with early repayment optional.

Atmos submitted a plan on September 14, 2021, requesting recovery of its extraordinary gas costs of approximately \$109.8 million through a securitized bond issuance. Atmos is requesting flexibility to securitize these costs over a time period of 10–15 years. Atmos estimated that a 10-year bond issuance would result in a fixed monthly charge of approximately \$5.56 for residential customers (10% total bill increase), while a 15-year issuance would result in a \$4.00 fixed monthly charge (7% total bill increase). Settlement discussions will be held at the end of January 2022.

Black Hills filed a plan on June 16, 2021, requesting recovery of approximately \$87.9 million in extraordinary event costs over 60 months. Under Black Hills' Plan, the extraordinary gas costs and associated carrying costs would be allocated among rate schedules based on February 2021 usage. Black Hills' initial proposal would result in an average monthly bill increase of \$12.23 for a residential customer with average usage over a period of five years.

On November 9, 2021, a unanimous settlement agreement was filed which, most notably, proposes reduced carrying charges from WACC to 1.30% through the end of December 31, 2021, and 5.71% for the remainder of five-year recovery period. The settlement agreement would result in a bill impact of \$11.47/mo. over five years for a residential customer with average usage. An evidentiary hearing regarding the settlement agreement was held in December 2021, where CURB presented pre-written and live testimony in support of the agreement. The parties agreed that Black Hills prudently incurred additional costs to ensure utility service in its jurisdictional territory. The reduction in carrying charge rates represented levels more in line with the actual costs to hold the debt while the recovery plan was developed. The rate during the five-year recovery period

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reflects the mixture of capital and equity used to finance the costs from the storm and provides the Company a means to rebalance credit metrics for the future.

On January 27, 2022, the Commission issued its order approving the settlement agreement. The Commission applied a three-factor test to determine whether the agreement was based on sufficient evidence and if the results of the agreement are in the public interest. The Commission concluded that the plan and associated costs is reasonable in light of the benefits provided ratepayers through an extended repayment period. Black Hills customers should expect to see information about the new surcharge appearing on bills in the coming months. The Commission order approving the settlement can be found at:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/20220127103623.pdf?id=2abc529b-8c9e-4d97-947a-0c785730690e>

Kansas Gas Service (KGS) filed its plan to securitize approximately \$451.7 million of extraordinary event costs on July 30, 2021. KGS has formulated a fixed charge by class, allocated based upon each class's percentage of total February sales volumes. KGS expects the securitized bonds to be issued by January 31, 2023. KGS is requesting flexibility to determine whether to securitize over a time period of five, seven, or ten years with initial anticipated bill impacts ranging from approximately \$11.00 to \$5.10.

On November, 19, 2021, a unanimous settlement agreement was filed regarding the KGS financial plan. The agreement, most notably, would reduce the carrying charge from WACC to 2.0% until the securitized bonds are issued. If the KCC authorizes KGS to securitize the extraordinary costs, the terms of securitization (including time period of repayment and, therefore, bill impact) will be determined in an upcoming docket for the securitization financing order. An evidentiary hearing was held over the financial plan settlement. We are now awaiting a Commission Order.

Concurrently, KGS filed a motion on May 28, 2021, requesting a waiver in order to deviate from tariffed penalties for third-party gas marketers and transport customers who under- or over-delivered gas to KGS during the event. Any collected penalties would be credited to the Cost of Gas Rider, thereby reducing the net extraordinary event costs for all sales customers. Several marketers have intervened in this docket. A non-unanimous settlement agreement was first filed between KGS, CURB, KCC Staff, and several marketers and transport customers on October 8, 2021. That agreement has been replaced with a new, unanimous agreement, filed on January 20, 2022. The signatories to the revised settlement have agreed KGS's net extraordinary cost of serving marketers and transport customers during Winter Storm Uri was approximately \$52.4 million and, if the settlement is approved, those extraordinary costs would be collected through a Negotiated Gas Penalty charge. As part of this agreement, Symmetry (a gas marketer) agrees to pay a reduced penalty of \$26 million with guarantees of repayment by its parent company. This new agreement was primarily reached to guarantee some payment for the incurred gas costs. CURB has taken a neutral position on this agreement, meaning that CURB is not a signatory, but also not opposed. CURB has concerns that this agreement sends the wrong pricing signals to transport customers, but understands that there could be severe detriments to sales customers if certain parties refused to pay their penalties under the prior agreement or there

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was further delay of the recovery plan. A hearing on the revised settlement agreement is scheduled for February 4, 2022.

UPDATE: Evergy's Transportation Electrification Portfolio

Docket No. 21-EKME-320-TAR

This docket involves Evergy's request to the KCC for approval of several rebates and Time-of-Use (TOU) rates, as well as a request to allow Evergy to implement its Clean Charge Network (CCN).

When last updated, this docket was scheduled for an evidentiary hearing to be held on August 24, 2021. However, due to the unavailability of an essential witness, the hearing was moved to September 20–21, 2021. At the hearing, a total of twelve witnesses testified on behalf of CURB, Staff, Evergy, AFPM and ChargePoint. The majority of the hearing dealt with the proposed expansion of the CCN. CURB opposed this expansion.

On October 22, 2021, CURB as well as other Intervenors, filed Post-Hearing Briefs. Then, on November 5, 2021, Evergy filed its Reply Brief with the Commission.

On December 6, 2021, the Commission issued its Order regarding the docket. As part of the Order, the Commission approved the Partial Non-Unanimous Settlement Agreement reached by the majority of the parties on July 29, 2021.

The Settlement included the following:

- Through the Residential Rebate Program, the Settlement provides for rebates of \$500 or \$250 for installing a 240v outlet, depending upon the rate schedule selected by the customer, with higher rebates for customers that select an EV or TOU rate.
- Evergy is authorized to spend up to \$10 million on the Commercial Rebate Program. \$1.6 million of this amount will be targeted to underserved areas.
- Depending on the results of the initial Commercial Rebate Program, the Settlement provides for that budget to be increased to \$15.4 million through an expedited process at the request of Evergy, with the concurrence of KCC Staff and CURB.
- The Settlement lays out the parameters that will be considered when evaluating whether to support an increase in the Commercial Rebate Program budget, including a) the number of EVs in each territory and the number of public chargers that are available, b) the number of public charging ports that have become available without the assistance of the rebate program, and c) the extent to which actual experience tracks with the Electric Power Research Institute's ("EPRI") current medium run projections for EVs.
- The Settlement includes a budget for Customer Education and Program Administration of \$2.3 million. Internal labor costs will not be included in the deferred asset related to Customer Education and Program Administration costs.
- At CURB's request, the Residential Developer Rebate is not part of the Settlement.
- The Settlement provides for the approval of the Transit Fleet and Business EV TOU rates as pro-

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- posed by Evergy.
- Reporting is a significant part of the Settlement, which provides for annual reports for both the Residential Rebate Program and the Commercial Rebate Program as well as requiring Evergy to perform Evaluation, Measurement and Verification (“EMV”) studies for both the Residential Rebate Program and the Commercial Rebate Program, and to provide the signatories with both preliminary and final reports on the results of each EMV. The Settlement also requires Evergy to use the results of the pilot to develop a presentation by June 2024 on future rate designs that are applicable to EV charging.

The Commission did make one change to the provisions of the Settlement and found that it is in the public interest to modify the settlement to allow residential customers to apply the Residential Rebate for either the installation of a 240 volt outlet or the installation of a hardwired charger.

The Commission denied Evergy’s request for predetermination of prudence regarding the expansion of the CCN, finding it “premature and unnecessary to predetermine the ‘decisional prudence’ of expanding the CCN,” and finding “Evergy has failed to conclusively demonstrate the need to expand the CCN based on the evidentiary record.... the need for utility investment in public EV charging infrastructure is extremely fluid and unknown at this point in time. Chief among these uncertainties are an imminent, large federal investment in EV charging infrastructure and a nascent competitive charging market in Kansas.”

CURB is pleased with this result and believes this Order establishes a fair step forward for jurisdictional utilities’ role in the advent of EVs in Kansas.

UPDATE: KCC Approves Unanimous Settlement Agreement in Black Hills’ Rate Case

Docket No. 21-BHCG-418-RTS

On December 30, 2021, the Kansas Corporation Commission issued its order approving the unanimous settlement agreement reached by CURB, KCC Staff, and Black Hills Energy (“Black Hills”) in its entirety. In approving the settlement agreement, the Commission applied a three-factor test based on the evidence submitted to the record.

The first factor asks whether the settlement agreement is supported by substantial competent evidence in the record as a whole. The Commission relied upon the signatory parties’ pre-written filed testimony in support of the agreement along with written testimony from 24 witnesses submitted with each parties’ position on Black Hills’ application for a rate change.

Second, the Commission considers whether the settlement agreement will result in just and reasonable rates. To that end, the Commission concerns itself with whether the rates that result from the settlement agreement will allow Black Hills to continue providing safe and reliable service without placing an undue or unreasonable burden on ratepayers. As noted in the Order, the settlement agreement calls for no net base rate increase with a \$1.56 per month increase to the customer charge. Additionally, ratepayers will receive a rate

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credit from the Tax Adjustment rider for the next three years. This ultimately results in a net rate reduction for Black Hills' customers over these three years and will provide a level of revenue for Black Hills that will allow it to continue providing efficient and sufficient service.

For the third factor, the Commission asks whether the results of the settlement agreement are in the public interest. In support of finding this factor in favor of approval, the Commission recognized that the parties to the agreement collectively represent a wide number of interested groups: residential and small commercial ratepayers (CURB), utility customers and shareholders (Black Hills), and the public interest, generally (Staff). Resetting of the Gas Safety and Reliability Surcharge back to zero allows Black Hills to utilize the statutorily-created cost recovery mechanism for investments in projects that enhance the safety and reliability of the natural gas delivery system. Coupled with the other terms of the agreement, the Commission found that the results of the settlement agreement would be in the public interest.

The full Commission order on the settlement agreement in this docket can be accessed at:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/20211230102459.pdf?id=100b014b-3fbc-4604-a58e-6ab04cb14644>

With the agreement approved by the Commission, Black Hills will be filing updated tariffs and rates schedules with the Commission to memorialize the terms of the agreement in Black Hills' billing. Customers should anticipate these changes to be reflected in their bills in the following months.

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ABOUT THE CITIZENS' UTILITY RATEPAYER BOARD (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 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, two 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.

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