

CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

June 2021



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

Kansas Utilities Are Developing Financial Plans in Response to Record Natural Gas Prices Incurred During February 2021 Winter Storm

From February 7, 2021, through February 19, 2021, Kansas and many other states throughout the Midwest experienced a severe and prolonged stretch of unseasonably cold temperatures. This period of prolonged arctic weather caused record demand for natural gas and electricity leading to record wholesale electricity prices in the Southwest Power Pool (SPP) Integrated Market (IM). In response to these weather conditions and price/supply constraints, Governor Kelly issued a State of Disaster Emergency Declaration on February 14, 2021.

In addition to the financial impact of this event on Kansans, many experienced service interruptions as a result of the winter weather event. All Kansas electric public utilities implemented rolling blackouts on February 15 and February 16. Additionally, Kansas natural gas distribution utilities implemented service curtailments to interruptible and transportation customers.

Kansas, as well as several other states, has opened proceedings to investigate utilities' preparation for and response to the event, as well as the eventual financial impact on customers. The Kansas Corporation Commission ("KCC" or "Commission") 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 and to defer the extraordinary costs associated with the event to a regulatory asset account. The specific dockets for each utility are 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

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MAJOR CASES WE ARE CURRENTLY FOLLOWING:

- **COVID-19 DOCKETS**
- **WINTER WEATHER EVENT DOCKETS**
- **19-KCPE-096-CPL**
Evergy IRP/Capital Plan
- **21-BHCG-418-RTS**
Black Hills Rate Case
- **21-EPDE-444-RTS**
Empire Abbreviated Rate Case
- **21-EKME-088-GIE**
Evergy STP
- **21-EKME-320-TAR**
Evergy Transportation Electrification

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

Plans for each of the listed utilities are in development with no mandated due date for plan submission. Known plan details are described below:

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 kWh usage during the month of February 2021.

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, requesting recovery of approximately \$252,762 in extraordinary event costs over a period of up to 60 months. Each customer's share of the costs will be computed based on their kWh usage during the month of February 2021. CURB provided input in the settlement process in this docket, and is supportive of this plan, but has explicitly reserved the right to recommend different provisions in the other 2021 Winter Weather Event dockets.

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. This would result in an average monthly bill increase of \$12.23 for an average residential customer over a period of five years.

Kansas Gas Service (KGS) has not yet filed a full recovery plan related to its extraordinary event costs. However, KGS has filed a motion requesting a waiver to deviate (i.e., reduce) from tariffed penalties for third-party gas marketers who under- or over-delivered gas during the event. Any collected penalties would be credited to the Cost of Gas Rider, thereby affecting the net extraordinary event costs for all customers.

CURB Files Comments and Cross-Answering Comments Regarding the Evergy Sustainability Transformation Plan

(Docket No. 21-EKME-088-GIE)

In the December 2020 CURB newsletter, CURB discussed a new docket (Docket No. 21-EKME-088-GIE) in which CURB intervened, along with several stakeholders, to investigate a Sustainability Transformation Plan (STP) filed by Evergy on August 13, 2020. Under the STP, Evergy plans to cut its operating and maintenance expenses and dramatically increase capital expenditures to increase shareholder earnings over the next five years. Evergy stated that its proposals will result in an earnings per share ("EPS") compound annual growth rate ("CAGR") of 6-8% from 2019-2024.

Importantly, the Commission opened an investigation in Docket No. 21-EKME-088-GIE (21-088 Docket) to gain an understanding of how the STP will affect service and rate trajectories, among other reasons. The Commission approved a procedural schedule that included a series of workshops to allow interested parties to

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more closely examine the STP and to initiate a dialogue with the Company on its provisions. Workshops were held on December 3, 2020, December 21, 2020, and January 20, 2021.

The Commission was also interested in hearing Intervenor comments and cross-answering comments; therefore, the Commission allowed those comments to be filed on April 16, 2021, and April 30, 2021, respectively. The Commission allowed Evergy to file response comments on May 14, 2021. One final workshop was held on May 24, 2021, wherein Evergy outlined its responses to Intervenor comments.

In this newsletter, CURB will outline its comments and the means by which residential and small commercial ratepayers can file public comments with the Commission. The 21-088 Docket is very important and will affect ratepayers significantly. The public can file comments until July 7, 2021, in this docket, and the Commission wants to hear from ratepayers and other interested parties.

CURB believes that it is very important for ratepayers to file comments in 21-088 Docket for the very reasons that CURB expressed in its comments. First, CURB noted in its comments that the STP includes \$5.6 billion in capital expenditures planned for Kansas, with approximately \$3.5 billion of that amount earmarked for transmission, distribution and Information Technology (“IT”) projects to support grid modernization. At least some of the capital expenditures included in the STP are based on spending benchmarks from a review of other utilities rather than on specific needs of the Evergy system. CURB is concerned that the incremental capital expenditures included in the STP were developed in response to shareholder concerns about earnings, not concerns about quality of service raised by customers. There is no evidence that the base line level of capital expenditures was inadequate to support the Company’s service.

In its comments, CURB also expressed its concern that transmission expenditures are the largest segment of the grid modernization program currently planned for Kansas. The emphasis on transmission spending is of concern to CURB, for several reasons. First, the vast majority of transmission spending is discretionary. According to Evergy, only a small portion of these expenditures are related to projects mandated by the Regional Transmission Organization (Southwest Power Pool or SPP) that governs transmission projects in Kansas and the surrounding region. A second concern is that Evergy’s recovery of significant levels of transmission expenditures is largely outside of the regulatory authority and control of the Commission. The revenue requirement associated with such transmission projects is a pass-through cost and the Commission has very limited flexibility with regard to rate treatment. Finally, CURB commented that these high transmission expenditures are unlikely to be offset by operating expense savings.

CURB also noted in its comments that the STP is still very much a work in progress. There is no firm or fixed portfolio of specific capital programs to be undertaken and monitored during the term of the STP. Essentially, regulatory control is hampered by the lack of specificity in the STP.

In its comments, CURB also expressed a number of concerns about the areas of operational efficiencies, i.e., cost reductions. CURB noted that there is also extensive overlap between the \$330 million of Non-Fuel Operating and Maintenance (NFOM) expenses contained in the STP and the merger commitments previously made by Evergy in the Merger Docket. In fact, assuming that at least \$250 million in merger savings has already been achieved, then the additional impact of the STP may be limited to \$80 million, which is significantly less

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than the \$330 million that is being announced to ratepayers.

Regarding the enhanced customer experience suggested by Evergy as part of the STP, CURB commented that Evergy must ensure that its basic customer experience is effective prior to introducing an Enhanced Customer Experience. Even then, Evergy should have to demonstrate that Enhanced Customer Experience investments are required for sufficient and efficient utility service. Moreover, CURB noted in its comments that many of the customer enhancements are already in place.

CURB is also concerned that there does not seem to be a process for measuring the progress of the STP or benefits to ratepayers. Evergy identified four key areas with specific metrics for internal monitoring of the STP but the Company has not identified specific benchmarks for these metrics. The Company also indicated that it did not plan to report to the Commission “beyond already established reporting that tracks our operational and service performance, which is well aligned with the STP.” CURB believes that Evergy should continue to report on merger savings and should also separately develop a reporting mechanism for projects conducted pursuant to the STP.

Many of the other Intervenors in Docket 21-088 had concerns that were similar to those expressed by CURB. Among them was whether the STP addresses specific reliability and service issues or is it being undertaken primarily to increase shareholder earnings. CURB noted that other Intervenors were concerned that the emphasis placed on transmission investment may not be appropriate. In its cross-answering comments, CURB agreed that these are all valid issues.

In its cross-answering comments, KCC Staff commented that it views the STP as having the potential to improve Evergy’s regional rate competitiveness and service reliability, but that “several refinements should be undertaken to make the STP a plan that all (or a majority) of stakeholders could support.” In response, CURB noted that all parties, including Staff, view this proceeding solely as informational and at a very high level. There should be no dispute that the KCC should require Evergy to fully support any claims for cost recovery associated with investment included in the STP under traditional legal principles.

CURB noted in its cross-answering comments that many Intervenors addressed the overall rate impacts of the STP. In these regards, Evergy indicated that the retail rate changes proposed under the STP are below the expected level of inflation when measured company-wide. CURB commented that inflation is not the standard by which the reasonableness or competitiveness of the Company’s rates should be evaluated. In CURB’s view, Evergy’s rates should be evaluated in light of retail rates in neighboring states. CURB pointed out that regional rate competitiveness is an expressed concern of the Kansas Legislature and Evergy’s lack of commitment to obtain regionally competitive rates by a certain date is troubling. In fact, CURB pointed out that it does not believe that the STP will necessarily result in regionally-competitive rates.

It would prolong this article to summarize the comments of all parties and how CURB responded to the same in its cross-answering comments. The reader can review the comments of all parties through the following hyperlink: [KCC Docket No. 21-EKME-088-GIE](#).

Before filing public comments, the reader may want to view the four workshops that the Commission held in Docket 21-088. These workshops focused on the following three issues: Grid Modernization (December

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3, 2020 workshop), Operational Efficiencies (December 21, 2020 workshop), and Enhanced Customer Experience (January 20, 2021 workshop). The last workshop in which Evergy addressed the Comments filed by the Intervenor (May 24, 2021) can also be viewed. Each of these workshops are available via the [KCC's YouTube Channel](#).

The amount of spending and NFOM reductions planned by Evergy as part of its STP is very much of concern to CURB. Ratepayers will be significantly affected by the STP. Therefore, CURB urges residential and small commercial ratepayers to file comments with the Commission on or before July 7, 2021. The Commission is extremely interested in ratepayer comments.

There are several ways in which public comments may be submitted: online (<http://kcc.ks.gov/your-opinion-matters>), via email (public.affairs@kcc.ks.gov), or by sending a letter to: KCC Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead, Topeka, KS 66604-4027. Public comments relating to Evergy's STP should reference Docket No. 21-EKME-088-GIE. The Commission's Public Affairs and Consumer Protection division will file a report by July 14, 2021, summarizing the public comments received.

Evergy Seeks Approval of Transportation Electrification Portfolio (Docket No. 21-EKME-320-TAR)

On February 24, 2021, Evergy filed an application seeking KCC approval of its Application for Approval of Transportation Electrification Portfolio in Docket No. 21-EKME-320-TAR.

Evergy's proposed Transportation Electrification Portfolio ("Portfolio") includes rebate programs, rates for charging services, an education and program administration budget, and a request for authorization to track program costs associated with the Portfolio for recovery of costs in future rate cases. The proposal also includes expansion plans for Evergy's Clean Charge Network ("CCN"). Each aspect of the proposal is described in greater detail below:

Residential Customer EV (Electric Vehicle) Outlet Rebate

The Residential Customer EV Outlet Rebate is designed to incentivize the installation of a 240V outlet at residential locations to enable Level 2 (L2) EV charging, which uses a higher output so charging times are much faster than with a standard 120V outlet. Customers would be eligible for one rebate per residence to cover 50% of the installation cost, up to \$500 per outlet, to install a dedicated 240V circuit.

Residential Developer EV Outlet Rebate

The Residential Developer EV Outlet Rebate is designed to incentivize the installation of a dedicated 240V circuit in new construction to enable L2 EV charging. Developers would be eligible for one \$250 rebate per new home constructed.

Commercial EV Charger Rebate

Evergy has proposed the Commercial EV Charger Rebate for third-party EV charging station installations at commercial locations across the Evergy service territory. Rebates can run from a maximum of \$25,000 for a multi-family unit to a maximum of \$65,000 for a fleet/workplace facility. Among the commer-

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cial customers eligible for the Commercial EV Charger Rebates are public service fleets such as urban transit buses, school buses, municipal service fleets, paratransit, rural transit, and public assistance vehicles.

Evergy proposes to administer the new rebate programs over a five-year period, beginning in the first quarter of 2022 and concluding in the first quarter of 2027.

Electric Transit Service Rate

Evergy has proposed a new Electric Transit Service (ETS) rate option for transit bus fleet customers in Kansas. The rate is a two-period Time-of-Use (TOU) rate with a 12-hour off-peak period (6 p.m.-6 a.m.) that aligns with typical transit fleet depot charging patterns. The rate removes the demand charge, while retaining a small local facility demand charge.

Business EV Charging Service Rate

Evergy has a proposed a new Business EV Charging Service (BEVCS) rate option for commercial customers. Any commercial customer with an EV charging station is eligible for this rate. The BEVCS tariff is a TOU rate with three time periods. The BEVCS rate eliminates the demand charge while retaining a facility demand charge.

Customer Education and Program Administration

Evergy is requesting a budget of \$2.6 million for customer education to support EV adoption and encourage participation in Evergy's program offerings.

Clean Charge Network (CCN) Expansion

In addition to the new programs and rates described above, Evergy wishes to expand the CCN in Kansas and is requesting that the Commission find that the limited and targeted CCN expansion plans are prudent from a decisional perspective.

Cost Recovery

Evergy requests that the Commission authorize the Company to implement a regulatory asset tracking mechanism to track and defer the program costs which include rebate incentives and certain associated customer education and administrative costs. This regulatory asset tracking mechanism would provide Evergy the ability to track and defer program costs to be considered for inclusion in the cost of service in future rate cases.

CURB has been granted intervention in this docket. CURB is generally supportive of national efforts to promote cleaner transportation options, including EVs. However, portions of Evergy's proposed Portfolio raise concerns regarding the role of the utility in setting public policy and the potential for cross-subsidization of various parties by utility ratepayers (e.g., from lower-income customers to higher-income customers). Additionally, with the enactment of House Bill 2145, private entities can provide EV charging services using electricity purchased through a retail electric service provider in that provider's certified territory. Therefore, CURB is concerned that Evergy's proposed expansion of the CCN would allow Evergy to leverage ratepayer funds to provide public EV charging, disrupting the open market for public EV charging service.

Black Hills Files for Rate Increase

(Docket No. 21-BHCG-418-RTS)

On May 7, 2021, Black Hills Energy filed an application with the KCC requesting an increase in its retail natural gas rates which has been docketed as 21-BHCG-418-RTS. Black Hills is requesting a revenue increase of approximately \$10.2 million. If approved, this overall revenue increase would include the addition of Black Hills's Gas Safety and Reliability Surcharge (GSRS) to base rates and resetting of the current surcharge rate to zero. The remaining net revenue increase of \$5.3 million would be offset by a refund of excess accumulated deferred income taxes held by the Company in the amount of \$2.8 million per year, for the following three years through a new Tax Adjustment Rider on customers' bills. Black Hills states that the net rate impact to customers during these three years would be a \$2.5 million increase with an overall rate of return of 7.05%.

Black Hills refers to several factors that drive their request for a rate increase at this time. First, statutory requirements for changing the GSRS include a general rate review by the Commission. Black Hills is seeking to use this application, in part, to incorporate past projects that have been previously funded with the GSRS into the Company's regular base rates. This, in turn, will reset the GSRS to zero and allow the Company to once again collect revenue through rates for future qualified projects. Second, Black Hills's last general rate case was concluded seven years ago in 2014 (See KCC Docket No. 14-BHCG-502-RTS). As a result, according to the Company, the present effective rates do not produce sufficient revenues to cover the reasonable costs to continue providing efficient and reliable natural gas service to Kansas. The application is organized into eighteen sections with testimony and exhibits sponsored by ten witnesses from Black Hills.

A virtual public hearing is scheduled for Wednesday, August 4, 2021, beginning at 6:00 p.m. The public may also submit comments to the Commission concerning this docket until October 21, at 5:00 p.m. There are several ways in which public comments may be submitted: online (<https://kcc.ks.gov/your-opinion-matters>), via email (public.affairs@kcc.ks.gov) or by sending a letter to: KCC Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead, Topeka, KS 66604-4027. Public comments regarding Black Hills' rate case should reference Docket No. 21-BHCG-418-RTS.

CURB has been granted intervention in this docket and is currently reviewing the application and the supporting documents with the assistance of external consultants to ensure that only fair and reasonable rates will be approved.

Empire Files for Rate Increase in Abbreviated Rate Case

(Docket No. 21-EPDE-444-RTS)

On May 28, 2021, Empire District Electric Company filed an Application for Abbreviated Rate Case that has been docketed as 21-EPDE-444-RTS.

Empire received permission from the Commission in the 19-EPDE-223-RTS Docket to make an "abbreviated filing." In an Order dated June 23, 2020, the Commission granted Empire's request to file an

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abbreviated rate case. The Commission stated “The abbreviated rate case is limited to capturing the revenue requirement impact (rate base and income statement) directly relating to: (1) the retirement of Asbury; (2) the acquisition of the Neosho Ridge, the North Fork Ridge, and the Kings Point wind farms; and (3) the non-growth plant and related accumulated depreciation and accumulated deferred income tax balances as of the end of the test year ending June 30, 2020.”

Empire is requesting recovery of a gross revenue deficiency of \$4,465,956 million. However, Empire states that after adjustments for several items, their actual adjusted revenue deficiency is \$723,000 and that this would amount to a rate increase for an average residential user of \$4.97 a month.

A virtual public hearing is scheduled for Tuesday, November 2, 2021, beginning at 6:00 p.m. The public may also submit comments to the Commission concerning this docket until March 10, 2022, at 5:00 p.m., via email (public.affairs@kcc.ks.gov) or by sending a letter to: KCC Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead, Topeka, KS 66604-4027. Public comments regarding Empire’s rate case should reference Docket No. 21-EPDE-444-RTS.

CURB is currently reviewing the application and supporting documentation and has filed for intervention in the Docket.

CURB Attends Semi-Annual NASUCA Conference

CURB staff attended the semi-annual conference of the National Association of State Utility Consumer Advocates (NASUCA), held virtually June 14th, 15th, and 17th, 2021. NASUCA is an association of 55 consumer advocate offices in 43 states as well as the District of Columbia, Barbados, Puerto Rico, and Jamaica. NASUCA holds two conferences per year: one in June and one in November. These conferences help consumer advocates like CURB become familiar with utility issues other states are facing, learn best practices in representing utility consumers, and allow members to share and discuss their successes and challenges.

Due to the ongoing pandemic, the summer 2021 conference was conducted via Zoom. In order to limit travel costs, CURB typically only registers one or two staff members for the event, but because this conference was held virtually, all five members of CURB’s legal and technical staff were able to participate.

Within NASUCA, there are several committees focused on specific facets of the utility industry: Electricity; Natural Gas; DER (distributed energy resources); Water; Telecommunications; Accounting and Taxes; and Consumer Protection. Each committee holds meetings (typically monthly via telephone or web) to discuss policy positions. During the conference, each committee chair gave a brief overview of the goings-on within their committee.

Sessions of the summer 2021 NASUCA conference covered topics such as: federal electric transmission policy; electric and natural gas system resiliency issues arising from the 2021 winter storm; electric vehicle trends; consumer protection efforts as COVID disconnection moratoria expire; FERC Order 2222’s effects on distributed energy resources; examination of performance-based rate plans; energy priorities of the new ad-

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ministration presented by the U.S. Dept. of Energy; and impacts of cyber incidents presented by the U.S. Dept. of Homeland Security. As always, the final day of the conference included an unscripted general session for member-agencies to discuss issues of relevance in their home states.

Furthermore, a resolution was passed urging State and Federal officials to adopt laws and regulations promoting transparency and protecting privacy of customer data in the context of home warranty services. The overarching principle of the resolution is that utilities should not make customers' personal identifying information, including billing history and usage information, available to home warranty service providers without express consent of the customer.

CURB will continue to attend these conferences in order to improve its ability to advocate for residential and small commercial ratepayers. The next NASUCA conference is scheduled as an in-person event for November 2021 in Louisville, Kentucky.

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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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