

# CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

FIRST QUARTER 2023



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

## KCC's Pandemic Customer Protection Requirements are Discontinued, Ending March 2023

### KCC Docket No. 20-GIMX-393-MIS

On May 21, 2020, the Commission ordered its jurisdictional electric, natural gas, and water utilities to offer 12-month payment plans for arrearages and waive late fees for any residential or small commercial customer that experienced negative financial impact during the COVID-19 pandemic. These customer protections were to be the minimum customer protections offered.

On December 2, 2022, KCC Staff filed a report recommending immediate discontinuation of the minimum customer protections for COVID-19 currently in place. KCC Staff believes current economic indicators suggest COVID-19 is no longer a serious threat to customers' ability to pay their utility bills.

On December 12, 2022, CURB responded to KCC Staff's report. CURB did not oppose discontinuation of the pandemic minimum customer protections. CURB acknowledges that COVID-19 has transitioned from pandemic to endemic status. However, CURB argued that immediate discontinuation of these protections would be inappropriate. CURB's position was that customers should receive notice *at least one* billing cycle before the expiration of the minimum protections. CURB's preference was for the protections to remain in effect until the annual Cold Weather Rule (which prevents utility service disconnection during frigid temperatures) lapses at the end of March 2023. This would allow time for the utilities and CURB to notify customers of the coming change and the provision of notice would allow affected customers to prepare themselves accordingly.

On January 10, 2023, the Commission issued its Order discontinuing the minimum customer protections from the COVID-19 pandemic, to take effect at the end of March 2023. Although utilities' policies can differ, it is CURB's understanding that the majority of utilities intend to resume charging late fees after March 31. The discontinuation of the minimum protections may also alter payment plan policies, depending on the utility. If you believe you may be impacted by these changes, we recommend contacting your utility to speak with a representative.

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### We're on the Web!

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



### MAJOR CASES WE ARE CURRENTLY FOLLOWING:

- Winter Storm Uri Dockets
- 19-KCPE-096-CPL  
Evergy – Integrated Resource Plan and Capital Plan
- 22-EKME-254-TAR  
Evergy – Energy Efficiency Programs
- 23-ATMG-359-RTS  
Atmos Rate Case

## **It's Your Legislature: Working with the Committee Process**

Kansas has an open legislative process. All committee action on bills and amendments is conducted in open session. The public is invited to attend any of the meetings.

All bills are identified by number upon introduction. If you do not know the bill number, you can inquire by subject matter by calling Legislative Hotline at 1.800.432.3924. Each bill can be accessed online: [http://www.kslegislature.org/li/b2023\\_24/measures/bills/](http://www.kslegislature.org/li/b2023_24/measures/bills/).

Committees meet on a regular schedule during the session. The list of committees is available online: [http://www.kslegislature.org/li/b2023\\_24/committees/](http://www.kslegislature.org/li/b2023_24/committees/). Information such as committee members and meeting days, times, and locations are on the individual committee pages. Committee meetings are broadcast live and recorded for view on YouTube: <https://www.youtube.com/KSLegislatureLIVE>.

The two most relevant committees for utility issues are:

- House Committee on Energy, Utilities and Telecom

[http://www.kslegislature.org/li/b2023\\_24/committees/ctte\\_h\\_energy\\_utilities\\_and\\_telecommunications\\_1/](http://www.kslegislature.org/li/b2023_24/committees/ctte_h_energy_utilities_and_telecommunications_1/)

- Senate Committee on Utilities

[http://www.kslegislature.org/li/b2023\\_24/committees/ctte\\_s\\_utils\\_1/](http://www.kslegislature.org/li/b2023_24/committees/ctte_s_utils_1/)

The final date for bill introduction was February 8, 2023. The turn-around date for bills to be considered in the originating chamber is February 24, 2023.

### **Testify before a Committee**

To testify at a hearing on any bill, you should contact the Committee Assistant whose name and telephone number appear on the committee webpage. When making an appointment with the Committee Assistant, identify your concerns. You will be given instructions and guidelines including time limitations and the number of copies of testimony to provide. You may also submit written testimony, particularly if there is not time for all interested parties to be heard.

Tips to be effective:

- In-person testimony
  - If others are also testifying on the bill, try to coordinate testimony prior to the hearing to avoid duplication.
  - Be on time to the meeting, seating is limited.
  - Begin your testimony by addressing the chair and committee members. Next, introduce yourself, declare who you represent, and state if you are a proponent or opponent to the measure.
  - Be polite and reasonable.

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- Be aware there may be questions from the committee members.
  - Be aware there may be no decision made by the committee on the day of the hearing, in which case, you should continue to follow the committee online for final action on the bill.
  - Written testimony
    - Identify the bill number at the top of the letter. Address one bill per letter.
    - Identify yourself and your expertise.
    - Provide your contact info.
    - Clearly state if you are a proponent or opponent to the measure.
    - Be brief — try to stick to one page, typed, with font sized for easy reading.
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## 2023 Legislative Update

CURB has compiled a list of pertinent bills from the 2023 Kansas Legislative session, along with CURB's position on record. Each bill can be accessed online: [http://www.kslegislature.org/li/b2023\\_24/measures/bills/](http://www.kslegislature.org/li/b2023_24/measures/bills/)

- HB 2154 & SB 88 – Providing for the statewide election of commissioners of the state corporation commission, establishing the utilities regulation division in the office of the attorney general, requiring such division to represent and protect the collective interests of utility customers in utility rate-related proceedings and exempting the state corporation commission from the open meetings act.
- HB 2155 & SB 78 – Requiring the state corporation commission to review the regional rate competitiveness of an electric utility's rates in electric utility rate proceedings.
- HB 2156 – Authorizing public utilities subject to the jurisdiction of the state corporation commission to establish rates that benefit low-income residential customers.
  - HB 2156 was introduced by CURB. CURB filed proponent testimony supporting 2156. It would provide an opportunity for utilities to develop low-income rates.
- HB 2225 – Limiting cost recovery for certain electric public utilities' transmission-related costs.
  - CURB filed neutral testimony regarding HB 2225. It has potential to create savings for rate-payers on transmission-related costs, but CURB questions whether there may be issues with its intersection of applicable federal law, including orders of the FERC.
- HB 2227 – Authorizing solar power purchase agreements with renewable energy suppliers, exempting the sales of electricity pursuant to power purchase agreements from public utility regulation and requiring electric public utilities to enter into parallel generation contracts with certain customers of the utility.

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- CURB filed neutral testimony regarding HB 2227. The proposal would encourage development of renewable energy resources in Kansas by allowing what is essentially a finance mechanism through which customers could acquire renewable energy for their own use. CURB does not perceive the proposal would be harmful to its constituents at large.
- HB 2228 – Increasing the capacity limitation of the total amount of net-metered generation systems that may operate within the service territory of an investor-owned electric utility and removing the load-size limitations on customers' net-metered systems.
  - CURB filed neutral testimony regarding HB 2228. The proposal would benefit customer-generators with renewable energy resources. CURB does not expect the proposal would have a significant adverse effect on the broader residential or small commercial rate classes.
- SB 46 & SB 49 – Requiring wind energy conversion systems to install light-mitigating technology systems.
- SB 54 – Expanding the eligible uses to qualify for the 0% state sales tax rate for certain utilities and providing for the levying of local sales tax on such sales by cities and counties.
  - CURB filed proponent testimony in support of SB 54. The proposal would reduce electric and gas utility bills for small commercial ratepayers.
- SB 68 – Providing incumbent electric transmission owners a right of first refusal for the construction of certain electric transmission lines.
  - CURB filed neutral testimony regarding SB 68. CURB only has a limited role in Southwest Power Pool (SPP) and transmission-related dockets. CURB perceives the proposal would hinder the SPP's competitive bidding process for transmission projects. CURB recognizes that competitive bidding may lower prices but it can also adversely affect reliability. CURB believes that before SB 68 is enacted, the responsibility falls upon Kansas incumbent electric transmission owners to demonstrate the bill will lead to both a reliable transmission system and just and reasonable rates.
- SB 126 – Providing an individual income tax credit for certain residential solar and wind energy expenditures.

CURB News will provide additional updates regarding the 2023 Legislative Session and CURB's Legislative activities in future issues.

## **UPDATE: CURB Witnesses File Direct Testimony in Response to Atmos Rate Application**

### **KCC Docket No. 23-ATMG-359-RTS**

On January 17, 2023, CURB analysts, both in-house and outside consultants, filed direct testimony reviewing Atmos's rate case application and proposed changes to tariffs. The issues were divided among four witnesses for CURB as follows:

- J. Randall Woolridge, Ph.D. – Professor of finance at Pennsylvania State University

Dr. Woolridge analyzed Atmos's proposed rate of return and discusses his own study of the market to propose a rate of return more in line with Atmos's financial situation. He concludes that the Company should have a rate of return of 6.91%, based on a return on equity ("ROE") of 9.25% and a cost of debt at 4.06%. This is in comparison to the Company's proposed rate of return of 8.19% and a 10.95% ROE. He bases his recommendation on a detailed study of a larger group of comparable gas distribution companies and a review of historical market trends. Further, Dr. Woolridge rejects the Company's request to increase their ROE with small firm size and common stock floatation cost premiums, finding that such increases are not warranted for a company the size of Atmos.

- Andrea Crane – President of The Columbia Group, Inc.

Ms. Crane testified on revenue requirement issues and the Company's proposed revenue increase of approximately \$7.7 million, as reflected in a December 2022 update by Atmos. She reviews the various areas regarding operating expenses and depreciation expenses of infrastructure to determine the appropriate rate base to measure the appropriate revenue requirement. She recommends several adjustments to the Company's filing in areas such as reported customer revenue, construction works in progress balances, employee benefits expenses, and uncollectable expenses. Based on the return on equity results and findings of Dr. Woolridge and her own analyses, Ms. Crane finds that Atmos has a revenue deficiency of approximately \$1.7 million that would require an increase in rates.

- Glenn Watkins – President and Senior Economist for Technical Associates, Inc.

Mr. Watkins prepared CURB's Class Cost of Service Study (CCOSS) in order to develop the way that any approved rate increase gets distributed among the various customer classes. He recommends a more modest change to Atmos's fixed and volumetric charges compared to the Company's witness in order to reasonably balance the recovery of Atmos's expenses with the desire to keep customers' bills lower. To do so, Mr. Watkins synthesizes his CCOSS results with the Company's results to determine a fair allocation of rate increases for each customer class based on each class's revenue levels. He concludes that the fixed portion of customers' bills should be reduced from the current level of \$18.89 to \$17.08 per month. As further support for this reduction, Mr. Watkins discusses the volumetric pricing nature of the natural gas distribution industry and the use of numerous surcharges and riders by Atmos to collect additional revenue. CURB believes that stronger price signals are achieved through reasonable fixed and volumetric pricing in order to gradually reduce the unavoidable fixed portion of customers' bills.

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- Josh Frantz – Senior Rate Analyst for CURB

Mr. Frantz reviewed Atmos's proposed SmartChoice Carbon Offset offering; Atmos's proposed tariff changes; and Atmos's request to modify the System Integrity Plan (SIP) surcharge.

The Company seeks to introduce a new voluntary surcharge for customers to offset a portion of carbon emissions associated with their individual gas usage, called the SmartChoice Carbon Offset (SCCO) offering. Under this program, customers would be able to pay more on their monthly bills for the Company to purchase carbon offset credits from a third-party marketplace on the customer's behalf. CURB is supportive of this proposal for a number of reasons. First, the program is opt-in voluntary, meaning that only those customers who are interested will have to make efforts to enroll. Second, participants who decide to leave the program may opt out at the end of the most current billing cycle. Third, Atmos indicates that customers not enrolled in the program will not have to bear any of the costs associated with the carbon offset credits or administration of the program. Mr. Frantz further recommends that the Commission implement this new program as a short-term pilot, in order to study costs and initial participation levels, before committing to a permanent program.

Mr. Frantz also responds to the Company's request to eliminate several miscellaneous service fees from its tariffs and to have the associated costs be collected from all ratepayers. These fees include: initiation and disconnection fees; meter reading fees; bad check and insufficient funds charges; collection fees for non-payments; credit card payment fees; and electronic measurement services and metering fees. Atmos estimated that these fees make up approximately \$422,000 in additional revenue that would be collected from all customers if the request is granted. Mr. Frantz concludes that all of these fees are designed to either deter unwanted customer behavior (e.g. writing bad checks) or to recover the costs of additional services beyond the distribution of natural gas for individual customers (e.g. labor costs for meter reading and vendor fees for credit card payments). He reasons that socializing such costs among all customers will have a disparate impact on customers, especially low-income, who did not cause such costs to be incurred by Atmos. Further, Mr. Frantz notes that Atmos did not provide a detailed explanation for why any of these particular fees should be eliminated and the costs shared by all ratepayers. He recommends that the Company provide such details if it wishes to receive Commission approval in the future.

Mr. Frantz opposes the Company's requests to expand the initial five-year budget of the SIP pilot and to extend the SIP for an additional five years. The purpose of the SIP is to accelerate the pace of replacement of obsolete materials (primarily bare steel pipe) in Atmos's Kansas distribution system. Atmos has requested a \$15 million increase to its current five-year budget, up to \$50 million from \$35 million, due to unforeseen increases in project costs and inflation. Further, the Company is also requesting an additional five-year timeframe extension of the SIP pilot to improve its rate of recovery for obsolete pipe replacement investments. Mr. Frantz recommends that Atmos should remain focused on materials that are presenting the most risk of failure, like bare steel pipe, rather than padding the program with other projects. While the Company acknowledges the importance of a safe and reliable distribution system, Mr. Frantz is wary of a request to charge ratepayers more for an expedited recovery of expenditures at this time. He indicates that the provision of safe and reliable service is already required of Atmos and maintaining such service should not be

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predicated on how quickly the Company can recover its costs from ratepayers if the system is in a critical condition. Mr. Frantz opposes extension of the SIP pilot at this time because the request is premature – there are nearly three years left in the initial five-year term.

Atmos filed its rebuttal testimony in response to intervenors' direct testimony on February 10, 2023. Parties began settlement discussions the week of February 15. CURB will continue to apprise ratepayers as this docket progresses.

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## **UPDATE: Evergy Proposes Energy Efficiency Programs; KCC Staff and Evergy Sign Alternative Settlement Agreement; CURB Urges Commission to Approve Robust Initial Agreement.**

### **KCC Docket No. 22-EKME-254-TAR**

On November 15, 2022, after several months of additional negotiations, KCC Staff, Atmos Energy, Kansas Gas Service, Inc., Black Hills Energy, and Evergy entered into an Alternative settlement agreement regarding Evergy's December 2021 application for a new portfolio of energy efficiency programs in Kansas. CURB and other stakeholders opted to stand behind their original support for the Initial settlement agreement reached in August 2022.

Unlike the initial August 2022 settlement agreement reached by CURB and other consumer groups with Evergy, this Alternative agreement removed virtually all energy efficiency offerings for the vast majority of residential and small commercial ratepayers. The Alternative agreement maintains some energy efficiency programs tailored for Hard-to-Reach homes (e.g., homes in rural areas and low-income housing). Under the Alternative agreement, customers who do not meet low-income thresholds would only have the option of participating in demand response programs, such as utility-controlled thermostats.

CURB witness Alice Napoleon submitted testimony in opposition to this Alternative agreement and reaffirmed CURB's support of the Initial agreement. In exchange for a reduced portfolio under the Alternative agreement, the program costs and budget have been cut to approximately \$45 million over 4 years, compared to \$121 million with the Initial agreement. Ms. Napoleon highlighted the difference in program offerings and the comparative energy savings between the two options for the KCC to consider. The Alternative agreement fails to include a number of pro-consumer energy efficiency programs, such as the Pay as You Save® (PAYS®) system and home energy reports. Further, the Initial agreement boasts ten times the energy savings in MWh compared to the Alternative agreement. While the Alternative agreement maintains demand response programs like the Initial agreement, projected demand savings only reach 66% of the levels associated with the Initial agreement. In other words, the Initial agreement is poised to save ratepayers much more in avoided energy costs and costs associated with new generation investments compared to the Alternative agreement.

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Beyond sheer numbers in energy savings, Ms. Napoleon discussed the external benefits for Kansas associated with a robust energy efficiency program. The Initial agreement establishes a structure to educate ratepayers about energy efficiency and provide a means for customers to take advantage of such programs to lower personal energy bills. The Initial agreement also promoted a collaborative approach between Evergy and stakeholders, like CURB, to develop program metrics and ways to improve offerings for customers. CURB also saw the Initial agreement provisions as a fair compromise with the utility to improve transparency behind the administering and review of the programs, something that the Alternative agreement lacks.

On December 6, 2022, the American Council for an Energy-Efficient Economy (ACEEE), a nonprofit research organization who helps develop energy policy across the country, released the results of its 2022 state scorecard regarding each states' efforts to promote and utilize energy efficiency to meet its population's energy needs. Kansas slid to 49th place (from 47<sup>th</sup> place in 2021) in terms of energy efficiency policy and programs. To CURB, this presents all the more reason to take meaningful action to tap into this unused resource to offset a growing reliance on electric generation. For more information on the scoring criteria for each state and to see how Kansas performed in each measured area, please visit <https://www.aceee.org/research-report/u2206>.

On January 5, 2023, the Commission held an evidentiary hearing on the Alternative agreement. CURB and other parties questioned KCC Staff and Evergy witnesses regarding the reasonableness of the Alternative agreement in light of the Initial agreement and the differences in programs, costs, and benefits. At the hearing, CURB urged the Commission to choose the option that would give Kansas the best start towards incorporating energy efficiency solutions into future energy demand through the Initial agreement. Witnesses acknowledged that while the Alternative agreement provides for less program budget and lost revenue costs being recovered from ratepayers, the agreement would result in significantly less savings for customers and the Evergy system, generally. CURB explained how the Alternative agreement fails to incentivize utility efforts in energy efficiency, as codified in Kansas law. Furthermore, KCC Staff admitted that they have not contemplated next steps for energy efficiency in Kansas under their proposal and appear complacent with not expanding the use of this least-cost resource in Evergy's future resource acquisition processes. This is particularly troubling to CURB in an environment where inflation and high energy costs, from both rising fuel prices and growing infrastructure investment, have put significant pressure on household finances. Energy efficiency represents a major resource for a utility and for ratepayers to conserve energy and reduce monthly bills. Without robust measures for customers to take advantage of, CURB is concerned by the limited means available to save money in Kansas and the growing energy burden on all ratepayers, especially low-income residents.

Parties filed post-hearing briefs summarizing arguments for both agreements with Commission on February 6, 2023. A Commission Order is due by March 29, 2023.



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## ABOUT THE CITIZENS' UTILITY RATEPAYER BOARD

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.

### Struggling to pay your utility bills?



For financial assistance, visit:

<https://www.dcf.ks.gov/services/ees/Pages/HelpOrg.aspx>

(Search for your city to find local helping organizations.)

NOTICE: Melody McCray-Miller, the Board member from the Kansas 4th Congressional District, resigned from the Board due to time constraints. The Governor is presently searching for her replacement. The remaining Board members are pictured below.

## The Citizens' Utility Ratepayer Board



**Carol Barta**  
*Chair*  
Manhattan



**Leilani Grey**  
*Vice-Chair*  
Topeka



**Rachel Jefferson**  
*Member*  
Kansas City



**Mary Treaster**  
*Member*  
Pretty Prairie