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

KGS Seeks $76 Million Increase

Kansas Gas Service Company, the largest natural gas distribution utility in the state, has filed an application to increase its rates by $76 million annually.

KGS is proposing that residential customer rates increase by $58 million. KGS estimates this will add $108 annually to residential bills—about 15%.

General service customers, who are mostly small retail customers, will see an increase of $13.5 million if the KGS application is approved.

KGS proposes to increase monthly residential customer charges from $6.20 per month to $10.50 per month, a 69% increase. Residential volumetric charges will increase from $1.4245 per Mcf to $2.0306 per Mcf, a 42.5% increase.

These proposed rate increases do not include the price for natural gas, which is expected to remain at historic highs.

KGS, which has not had a

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Broadband Bill Killed in House

The House Utilities Committee killed a measure that would have deregulated broadband services offered by SBC. HB 2019 would have eliminated KCC oversight of broadband services and "underlying facilities."

SBC lobbied extensively for the measure, saying that it would spur investment in broadband facilities. However, SBC refused to pledge a specific investment level.

CURB testified against the measure because it likely would have resulted in deregulation of voice as well as broadband service.

The Commission Staff also expressed opposition to the measure.

The Committee heard over 18 hours of testimony and debated several proposed amendments.

Although HB 2019 was defeated, SBC is expected to continue its vigorous campaign for broadband deregulation in Kansas, while also pressuring the FCC and several other states for deregulation of broadband services.

Natural Gas Price Soars at NYMEX

The national price of natural gas spiked at the end of February.

The March contract for natural gas on the New York Mercantile Exchange closed above $9.00 per Mcf. Daily prices in some areas of the country soared above $20.00 per Mcf.

These high prices will be reflected on your heating bills for usage in March.

Most Kansas natural gas utilities buy the natural gas you use to heat your home under contracts that set prices based on market indexes. When the national market price for natural gas goes up, so do the indices that dictate the price that utilities pay for gas. These increased gas prices flow directly to customers through the PGA or COGR charge that appears as a line item on your natural gas bill.

Historically, national prices for natural gas have been in the $2.50 to $3.00 range. This winter however, national prices have risen to the $5.00

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Gas Prices Up

(Continued from Page1)

to $6.00 range. You may have noticed that your gas bill has been unusually high this year. Unfortunately, it seems likely that prices will remain high through next winter also.

While we cannot control the national price for natural gas, CURB reminds consumers that conserving energy will help keep your monthly heating bills down. Lowering thermostats, installing insulation, fixing or upgrading windows and furnaces, and closing off unused living space in your home are effective ways to help reduce your gas consumption.

KGS Rate Increase

(Continued from Page 1)

rate increase since 1996, says that it has invested $50 million annually in facilities upgrades, and that increased operating costs for such items as health care coverage, wages, materials and supplies make the rate increase necessary.

CURB has begun reviewing the KGS application and will file testimony on May 28, 2003, with its recommendations for consumer rates.

The Commission will convene a technical hearing on the application in early July, and issue an order by the end of September. If a rate increase is allowed, it would not go into effect until next winter.

(Docket No. 03-KGSG-602-RTS)

KCC'sTelecom Price Deregulation Inquiry Continues

The KCC continues its investigation into the procedures and criteria that will be used when it reviews price deregulation application for telecommunications services. The KCC held a three-and-a-half day hearing on the issue January 28-31.

The primary issue at the hearing was how much competition is enough to trigger price deregulation. Southwestern Bell had been arguing that the statute requires price deregulation upon a finding that a single telecommunications carrier is offering service to a single customer.

Commission Staff put forth several suggestions for determining the nature of the competition. Staff suggested that the applicant for price deregulation should conduct a market share analysis. Staff suggested that all telecommunications providers file access lines counts on a regular basis.

CURB continues to emphasize that the applicant has the burden of showing price deregulation is in the public interest and should present its best case for price deregulation. CURB advocates the creation of a checklist of issues that must be addressed by the applicant.

Throughout the hearing, the Commission indicated it would consider the public interest when exercising its discretion in approving price deregulation applications. The parties will be filing briefs in the coming weeks.

(Docket No. 02-GIMT-555-GIT)

House Bill 2374: Secret Rate Increases

The Kansas Legislature is considering allowing utilities to increase consumer rates in secret and hide the increases on your bill.

Last year, the legislature passed a law that allowed utilities to impose a surcharge on consumer bills for the cost of increased security measures implemented after September 11. The KCC was directed to create a process for review of the security costs and creation of the surcharge.

While CURB agrees that most consumers are likely to be willing to pay a reasonable surcharge that helps protect our important state utility infrastructure, CURB told the KCC that customers want protections that ensure that the surcharge has been thoroughly reviewed and does not duplicate costs already in rates, and that such capital expenditures should be recovered over a time period consistent with other similar capital investments.

Further, while the details of what specific security measures are being implemented should not be made public in the KCC review process, CURB sees no reason whatsoever why the total rate increase and the method of recovery being requested should not be made public.

Lastly, CURB told the Commission that the surcharge should appear as a line item on utility customer bills so that customers are clearly informed about what they are paying for enhanced security of the utility system.

The KCC agreed with CURB on these points. The KCC ordered a review process of 60 days, ordered that the total rate increase and the method of recovery are to be made public, and that surcharges are to be identified as a line item on consumer bills.

Several utilities asked the Commission to reconsider this position, but the Commission recently sustained its original order.

Apparently disgruntled with the Commission's fair-minded approach to security cost recovery from ratepayers, the legislature is now considering legislation that would effectively reverse the KCC decision and cloak the review and recovery of security costs in a veil of secrecy.

If enacted, HB 2374 would require all information regarding security expenditures to be confidential, including the total amount of the rate increase that might be allowed.

The law would also require that the security cost recovery charge be "unidentifiable on customer's bills," meaning that the rate increase attributable to security cost recovery won't be readily apparent on your utility bill.

Lastly, the bill allows the utilities to recover any capital expenditures on security over one-third of the normal recovery period for similar capital expenditures.

HB 2374 has passed in the House of Representative and will now go before the Senate Utilities Subcommittee. CURB testified in opposition to this bill in the House, and will continue to oppose this bill in the Senate.

However, if the bill passes, customers should keep a close eye on your utility bills. If your utility bills start increasing, and you can't figure out why—well, you can call us and ask, but we won't be allowed to tell you why. *It's a secret!*

(Docket No. 03-GIMX-431-GIV)

Commission Approves Westar Stock Buyback from Protection One

The Commission has recently approved an agreement submitted by the Parties in Westar's restructuring docket that allowed Westar Energy to buy back Westar common and preferred stock owned by Protection One. Protection One had purchased the stock over the last few years in the market.

The Agreement allowed Westar to remove Protection One's stock ownership, while providing Protection One revenue needed for its operations. The Commission found this to be consistent with Westar's restructuring goals and in the public interest.

(Docket No. 01-WSRE-949-GIE)

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Time! Energy!
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Atmos/Greeley Eyes Weather Norm

Atmos Energy (*aka* Greeley Gas) has filed for permission to implement a "Weather Normalization Adjustment" on consumer bills. Under Atmos' plan, the bills will be adjusted each month to account for changes in the weather.

Atmos' rates are set based on normal weather, so if weather is normal, the rates charged to customers will provide Atmos the amount of revenue allowed in its last rate case. However, weather is never exactly normal in the real world. When it is warmer than normal, customers use less gas to heat their homes, heating bills are low and Atmos does not receive all of the revenue that it planned for.

Conversely, when weather is colder than normal, customers use more gas to heat their homes, heating bills are higher, and Atmose receives more revenue than it had planned for.

Under Atmos's plan, consumer bills will have this weather variable removed, and should remain somewhat constant over time.

Atmos's proposed adjustment will not change the gas prices consumers pay on their heating bills. The adjustment will only be applied to the volumetric charges that consumers pay for each Mcf of gas they use. CURB is reviewing the Atmos proposal.

(Docket No. 03-ATMG-539-TAR)

KGS Hedge Program Saves Millions

Kansas Gas Service Company's hedging program has been very successful this year at reducing gas price volatility on consumer bills. By hedging gas prices, KGS saved its customers close to $70 million this winter compared to what its customers would have paid based on national gas price indexes. This has helped make KGS customer gas bills this winter some of the lowest in the state.

KGS is finishing up the fourth year of its hedging program. Under the hedging program KGS customers are billed one dollar per month ($7.2 million annually). KGS uses this money to buy financial instruments (call options, put options and swaps) with the goal of reducing the volatility of natural gas prices on customer bills.

KGS works closely with CURB and the Staff of the KCC in implementing its hedging strategy each year. Last spring, when gas prices at the national level were extremely low, CURB, KGS and KCC staff reached an agreement that allowed KGS to enter into "swap" arrangements, essentially fixing the price of natural gas at the then low prices. The hedging budget was used to purchase "put" options to allow KGS gas prices to go down if market prices went down.

As we now know, the price of natural gas did not go down, but rather went up to record levels. However, as natural gas prices soared this winter, KGS customers were protected from the price spikes by the "swaps".

It must be noted that this was a one-time occurrence with the hedge program. While CURB is certainly pleased that this strategy paid off for KGS customers this past winter, as we look to next winter, consumers should expect high natural gas bills. Prices are forecasted to be between $5.00 and $6.00 per Mcf, and no hedge program is going to reduce this price.

Aquila and Atmos/Greely also have hedging programs for their customers. CURB has not seen any final numbers from these two companies but, based on the hedging strategy they used, CURB does not expect the magnitude of savings KGS customer saw this winter.

Westar Files Restructuring Plan

On February 6, 2003 Westar Energy filed its Restructuring Plan, as ordered by the Commission on November 8, 2002.

Since the Commission issued its Order, Westar has undergone a management change. Jim Haines, a former Westar executive under John Hayes, has been brought in to lead the company, replacing David Wittig.

Westar's new management is proposing to return to being only a Kansas electric utility. To accomplish this restructuring, Westar is proposing to sell off all of its properties and assets that are not related to its Kansas electric utility operations.

Specifically, Westar proposes to sell off its stock in Oneok, and its Protection One subsidiary, and use the proceeds to pay down debt.

Westar also has decreased stockholder dividends by 37%, to 76 cents per year. Savings from the reduced dividend, along with other internal cashflow, will also be used to pay down debt.

Finally, if necessary, Westar will issue new equity and use the proceeds to pay down debt. Westar has set a target level for debt after the restructuring of $1.47 billion, down from its current $3.4 billion debt level.

CURB will file its comments on Westar's proposed restructuring plan on March 14, 2003.

CURB is pleased with the focus the new management has on the Kansas electric utility operations, and believes the debt reduction plan proposed by Westar is a good-faith effort to comply with the Commission Order.

However, CURB is concerned that consumer rates are still high, and shareholder dividends, which could also be used to pay down additional debt, are not being cut enough.

The Commission has not set a procedural schedule to review the Westar plan.

(Docket No. 01-WSRE-949-GIE)

Aquila Ordered to Report on Finances

The Commission has ordered Aquila to report on its financial condition by April 10, 2003.

In addition, by March 12, 2003, Aqulia must file comments with the Commission pertaining to its corporate structure and the proposed interim standstill protections required by the order.

Aquila provides retail electric service in Southwest Kansas (formerly Westplains Energy), and provides retail natural gas distribution in Lawrence and Wichita (formerly Kansas Public Service Co. and Peoples Natural Gas). Aquila serves approximately 165,000 customers statewide.

In its March 4, 2002, order, the Commission noted that its concerns about Aquila's ability to continue to meet its utility obligations in Kansas were founded in recent debt downgrades of Aquila by Moody's Investment Service, Standard and Poor's, and Fitch—the major debt rating services—and a recent announcement by Aquila that it is seeking to collateralize its utility properties to cover $650 million in existing debt.

The Commission ordered Aquila to submit a financial plan, provide detailed information about its long-term debt, current assets and liabilities, and corporate structure and organization.

The Commission also proposed interim standstill protections to insulate Aquila's Kansas utility customers from the risks and costs associated with Aquila's non-utility investments.

Importantly for ratepayers, the Commission also noted, "Kansas utility customers, who had no stake in the profits of the non-utility businesses, should not be expected to bear the losses from those non-utility businesses."

CURB agrees with the Commission and will participate in this proceeding to protect ratepayers.

(Docket No. 02-UTCG-701-GIG)

Welcome Brent Getty

Please join the CURB staff in welcoming Brent Getty, our newest attorney. Brent is currently handling most of the telecom cases—and doing a great job, we might add.

Brent came to us from the Kansas Insurance Commissioner's office. Previously, he and CURB Attorney Niki Christopher worked together as as state appellate defenders.

Brent, a native of Ottawa, has a B.S. in Economics and a law degree, both from Kansas University.

Legislative Update

HB 2019 – Would have deregulated broadband services and "underlying facilities." This bill, supported by SBC, was **killed in House Utilities** after contentious hearings at which CURB and numerous parties testified that the bill might result in total deregulation of voice services as well as broadband.

HB 2028, 2029 and 2199– Would have allowed real estate agents, car salespersons and cable companies (respectively) to call Kansans on the No-Call list; **all three bills died in House Utilities** without hearing.

HB 2037 – Would repeal sunset provisions on security cost recovery by utilities; **House passed; now in Senate Utilitie**s.

HB 2098 – Would impose personal property tax on fuel consumed by utilities; **to be heard March 6 in House Taxation**.

HB 2099 – Would eliminate property tax exemption from natural gas production property; **heard in House Taxation; no action yet**.

HB 2110 – Would eliminate sales tax exemption from home utility bills, fuel purchases for noncommercial heating, and gasoline. CURB opposed this bill at the **hearing in House Taxation; no action yet**.

HB 2130 – Would ease restrictions to encourage improvement of transmission infrastructure in Kansas; would allow pass-through of certain costs between rate cases. CURB testified against the bill in House Utilities; **it passed the House and is now in Senate Utilities**.

HB 2186 – Would codify the KCC Cold Weather Rule, impose a "Three Strikes, You're Out" provision, make payment plans more costly and shorter, and provide opportunities for utilities to involve social service agencies in negotiating and advocating on behalf of customers. CURB testified against the bill in House Utilities because the stricter provisions will result in large numbers of customers without heat. **It passed the House, however, and is to be heard in Senate Utilities on March 13.**

HB 2264 – Would eliminate the sales tax exemption on residential utility bills; **in House Taxation; no hearing or action yet**.

HB 2374 – Would allow utilities to pass through costs of implementing security measures; authorizes highly confidential KCC application process that amounts to single-issue ratemaking in secret. CURB testified against this bill in House Utilities, but **it passed the House and is now in Senate Utilities**.

HCR 5007 – Resolving that FERC should take action to encourage construction of transmission facilities; **passed the House; now in Senate Utilities**.

SB 51 – Calls for KCC to review utility executive compensation in any proceeding that may affect rates; excessive compensation not to be recovered from ratepayers. CURB supported this bill at the House Utilities hearing. This bill in **highly amended form passed the House and is now in Senate Utilities**.

SB 80 – Would have required KCC approval of sales of utility assets, and allow conditions to be imposed on sales of assets over $500,000. **Died in Senate Utilities without action after a hearing**.

SB 85 – Would have eliminated property tax exemption on property used for production of wind energy; **died in Senate Assessment and Taxation without action after a hearing**.

Sub SB 104 – Would require KCC to set forth anticipated ratemaking treatment of utility construction projects in future rate cases upon the utility's request. CURB testified against the bill, which **passed the Senate and is now in House Utilities**.

SB 126 – Would have allowed calls to Kansans on the No

Call list to arrange face-to-face meeting with salesperson; **died in Senate Judiciary without action after hearing**, where CURB testified in opposition to the bill.

SB 188 – Would have added personal cell phones to No Call list, and added the Kansas list to any federal No Call list; **died in Senate Judiciary without action after hearing**, where CURB approved the provisions but suggested no action be taken until the No Call program has been up and running at least a full year.

SB 202 and 224 – Related broadband deregulation and deployment bills, including provisions for funding deployment; **died in Senate Commerce without action or hearing**.

Midwest Energy Wins Gas Increase

CURB suffered a decisive defeat in its battle against Midwest Energy's bid for a substantial increase in natural gas rates.

On January 22, 2003, the KCC issued an order approving a revenue increase of almost $5 million annually.

Rejecting CURB's proposals at almost every juncture, the Commission awarded Midwest a rate of return of 7.6318%, on a rate base of just under $31 million.

Most disappointing for residential ratepayers was the Commission's approval of substantial increases in customer charges. Midwest, which was formed out of 3 different utility systems, previously charged residential customers $4.50 to $6.25 per meter per month. Now, all Midwest residential customers will be paying $10.00 per month.

(Docket No. 02-MDWG-992-RTS)

Midwest Energy Electric Case Settlement Approved

Midwest's Energy's application for a rate increase was settled by stipulation and agreement among the parties on January 31, 2003. CURB agreed to the revenue requirement, but did not give its approval to the rate design agreed upon by other parties.

Unfortunately, the KCC's decision in the Midwest Energy gas rate case to give Midwest most of it wanted left CURB virtually no option but to seek a favorable settlement on the electric case. Many of the issues in the gas case were resolved against CURB, and were similar to issues that would be settled in the electric case.

Fortunately, CURB and KCC Staff were able to reach an agreement with Midwest on the revenue requirement that made the increase substantially lower than it might have been.

Midwest's application requested a revenue increase of almost $1.7 million. The Commission approved the parties' agreement to limit the increase to $600,000.

Unfortunately, relying on the Commission's approval of a $10 residential customer charge in the gas case, Midwest refused to budge on this issue in the electric case. CURB opted out of the settlement on rate design.

No-Call Violators Fined

Civil penalties have been issued for the first time against companies that violated the Kansas No-Call Act, which went into effect in July 2002. Four companies entered into settlement agreements with the State of Kansas.

The four companies are: Bankers life and Casualty Co. of Chicago, fined $15,000 for 26 complaints; Grandvista Vacations L.L.C. of Branson, Missouri., fined $10,000 for 11 complaints; SeniorsFirst Insurance L.L.C. of Dallas, Texas., fined $3,000 for six complaints; and U.S. Security Inc. of Oklahoma City, fined $2,000 for four complaints.

To register a complaint, collect as much information as possible about the telemarketer, such as the company's name, address, telephone number and the name of the caller. Then, submit a complaint form—available on the Attorney General's web site at www.KSAG.org—or call the Attorney General's Consumer Protection Division at 785-296-3751 or 1-800-432-2310.