



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES AUG 2005

KCC Denies Deregulation of Most SBC Services

On Monday, June 27, 2005, the KCC denied the majority of SBC's request for price deregulation in the Kansas City, Wichita, and Topeka exchanges. The Commission had heard two full days of testimony by witnesses for SBC, CURB, Cox/Worldnet, Everest, and Staff on June 14 and 15.

Because of the short time Kansas law allows the Commission to determine price deregulation applications (21 days plus one 30-day suspension period), CURB was required to focus primarily on residential and single-line business basic local service and individual vertical services—the services which would impact the most residential and small business ratepayers if prices were deregulated.

CURB was pleased that the three Commissioners were unanimous in denying SBC's

(See SBC, page 2)

Westar Seeks \$84 Million Increase

Westar Energy has filed an application for an \$84 Million rate increase with the Kansas Corporation Commission.

The utility, which serves 655,000 customers in Kansas, says that higher costs of fuel, capital and environmental compliance are some of the reasons for seeking the increase.

Westar is proposing a cost-of-fuel adjustment on consumer bills that would pass through increases in the cost of fuel to customers. Westar is also requesting charges be placed on consumer bills for transmission costs and environmental compliance costs.

Additionally, the company is proposing a new plan that would allow the company to increase rates if certain standards of reliability are met, and that would require the company to return rebates to customers if the standards are not met.

The proposed increase would hit the customers in the former KPL service territory the

(See Westar, page2)

Aquila Gas Case Settles: Rates Rise \$2.7 Million



At the public hearing in Dodge City, CURB's Dave Springe (standing, left) looks on as KCC Rate Analyst Dorothy Myrick talks about Aquila's gas rate application to area residents.

On May 2, the KCC approved a settlement that granted Aquila a \$2.7 million increase for its natural gas utility.

Parties to the settlement with Aquila were CURB, the KCC Staff, the Sierra Club, Cornerstone Energy, United School District 480 (Liberal), Seward County Community College and the Southwest Medical Center.

As a result, residential customer charges will rise from

(See Aquila Hike, page 2)

SBC

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request to price deregulate residential and single-line business basic local service, as well as the Commission's denial of SBC's request to price deregulate individual vertical services, such as caller ID, call waiting, etc.



In Topeka, CURB's Steve Rarrick speaks to the crowd attending the public hearing on SBC's bid to deregulate its services.

The Commissioners did deregulate the pricing of residential and business bundled service offerings in the Kansas City and Wichita exchanges (but not in the Topeka exchange), which consist of the basic local access line and one or more vertical, long distance, or unregulated service offerings such as DSL or cellular service, all offered at a single price.

The Commissioners also denied SWBT's request to deregulate the pricing of multi-line business access lines in the Kansas City and Topeka

exchanges, but granted SBC's request to deregulate pricing of multi-line business access lines in the Wichita exchange.

Some other larger business services were price deregulated, such as flat-rate trunk business access lines and smart trunk business access lines in all three exchanges, and Plexar business access lines in the Wichita exchanges.

While CURB was extremely pleased with the decision overall, we have asked the Commission to reconsider its decision to deregulate pricing for residential and business bundled services in the Kansas City and Wichita exchanges, as well as its decision to deregulate the pricing of multi-line business access lines in the Wichita exchange.

KCC Docket No. 05-SWBT-997-PDR

Westar

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hardest, as Westar continues its efforts to even out the disparities in rates between its Westar North (formerly KPL) territory and its Westar South (formerly KG&E).

When KPL merged with KG&E, an agreement prevented the high costs of KG&E's Wolf Creek Nuclear Power Plant to be passed on to KPL customers. However, over the years since, rate increases to Westar North customers have outpaced those imposed on Westar South. If Westar's proposals are accepted by the Commission, the rate disparity between the two regions will be minimal.

CURB has engaged several consultants who are currently investigating Westar's application. We're not prepared as yet to state CURB's position on Westar's various proposals. We'll be scrutinizing them closely to determine their likely impact on residential and small commercial ratepayers.

KCC Docket No. 05-WSEE-981-RTS

Aquila Hike

(Continued from page 1)

\$7.00 to \$12.00 per month, but volumetric charges will decrease from \$.195 per therm to \$.151 per therm. Gas costs will continue to be passed directly through to customers via the purchased gas adjustment.

Customer charges for small commercial customers will rise from \$11.00 per month to \$17.00, and the volumetric charge will decrease from \$.205 per therm to \$.151.

Additionally, included in the increase will be a surcharge to replace an aging gas main that runs along 13th Street in Wichita. Because the main will be replaced all at once while the City of Wichita is doing major reconstruction on the 13th Street corridor, ratepayers will save construction costs over the long run. This surcharge will be discontinued after three years.

CURB believed that Aquila had only established support for a \$1.03 million increase. However, CURB agreed to the settlement because of the likelihood that Aquila would have won a bigger increase based on the Commission's

decision reached in the recent Aquila electric case.

KCC Docket No. 05-AQLG-367-RTS

Empire District Seeks \$4 Million Rate Increase

A southeast Kansas electric utility has filed an application with the KCC for a \$4.181 million rate increase. This would raise the average residential bill by almost 25%.

Empire District Electric Company serves approximately 10,000 customers in Kansas. Headquartered in Joplin, Missouri, the utility serves customers in four states.

Another big change sought by Empire is to implement an energy cost adjustment (ECA).

Instead of building into rates an average cost of fuel used to produce electricity, companies with an ECA separate the fuel cost into a separate charge. The ECA fluctuates with the costs of the fuel. If fuel costs go down, the ECA decreases. If the fuel costs go up, the ECA increases.

The intent of an ECA is to ensure that the utility is reimbursed promptly and accurately for its costs of fuel.

Electric companies like ECAs because when their fuel costs go up, they can pass through the extra cost to their customers. Since the recent trend is for fuel costs to keep rising, more and more electric

companies are seeking approval to implement ECAs.

A public hearing will be held on September 27 at 7:00 p.m. at the Baxter Springs Community Center. This will be the customers' only opportunity to testify before the KCC concerning the Empire's proposed rate increase.

A technical hearing is scheduled to begin in Topeka on October 11. The Commission's decision must be issued by the end of the year.

CURB is reviewing the company's application, and is due to file direct testimony in the case on August 25.

KCC Docket No. 05-EPDE-980-RTS

KCC Wins Aquila Appeal on Electric Rates

On July 22, the Kansas Court of Appeals upheld the decision of the Kansas Corporation Commission to hold Aquila's WPK electric utility's rate increase to \$8.04 million.

The company had requested a \$19.2 million increase. The KCC initially awarded a \$7.4 million increase.

After Aquila petitioned for reconsideration, alleging errors in the Commission's calculations of the increase, the KCC revised the increase to \$8.04 million.

CURB's petition for reconsideration was denied. CURB believes it was illegal under Kansas law to place any of the costs of serving industrial

customers in the rates of retail ratepayers.

Aquila filed an appeal on April 13, which raised three major issues. Aquila complained that the KCC had based its rates on the company's actual capital structure, rather than on a hypothetical capital structure that the company alleged was better representative of the electric utility's share of the parent company's debt and equity.

However, because WPK is a division, rather than a subsidiary, it has no equity or debt of its own, other than that assigned to Aquila.

The company also appealed the KCC's denial of recovery from ratepayers of certain costs relating to wind energy and steam sales.

The third issue on appeal was whether the KCC erred in denying Aquila recovery of its entire claim for fuel costs to serve two large industrial customers who receive service under discount contracts. The Commission allowed recovery from ratepayers of the actual costs, but denied Aquila's claim for anticipated costs.

CURB supported the KCC's decision to calculate rates using the company's actual capital structure, but argued that both the KCC and Aquila were wrong on the issue of fuel costs.

At this writing, none of the parties has filed for review of the decision by the Kansas Supreme Court.

KCC Docket No. 04-AQLE-1065-RTS; Ks. Court of Appeals Docket No. 94,326

CURB, Industrials Fight for Public Accountability

CURB and a group of large volume industrial customers (LVC) have been fighting since February what has been largely a futile battle to get the KCC to release to the public information that Aquila has erroneously labeled "confidential."

Among the documents that the KCC continues to withhold from public view is a presentation that Aquila made to individual Commissioners in a set of serial meetings on February 24.

CURB and the LVC Group have made numerous motions for release of the documents under K.S.A. 82-1-207, which requires the Commission to make available any information presented to the Commission on an *ex parte* basis any time after a hearing and before a final order is issued.

Although the Commission Staff has argued that the meetings were permissible because the hearing in question was followed by an order that Staff claims was a *de facto* "final" order on a subject not related to the issues discussed with the Commissioners, LVC and CURB disagree with this contention. The Commission has yet to comment on its actions in meeting with Aquila.

In addition to seeking release of the presentation made to Commissioners, CURB and LVC have argued that the

delays in the public release of nonconfidential information in this document have denied due process to the parties.

Over the course of the last few months, the company has agreed that it should have released much of the information it initially labeled "confidential." However, the releases were incomplete and made only after protracted delays.

On June 6, the KCC approved an agreement between Staff and Aquila that would preclude further challenges to the redaction of information contained in a Staff Report on Aquila that was initially filed on February 14, 2005.

Then, on July 12, KCC issued its order on the remaining issues. It ruled that its obligations not to disclose confidential information prevents it from releasing the documents presented to the Commissioners in their meetings with Aquila on February 24. The order did not address whether the Commission meetings were *ex parte* communications.

CURB, LVC and the Commission have all filed petitions for reconsideration and clarification of various parts of the order.

KCC Docket No. 02-UTCG-701-GIG

A New Face at CURB

CURB is pleased to announce the addition of administrative specialist Shonda Titsworth to our staff.

Shonda will be handling the front desk and serving as a valuable aide to CURB's attorneys and to Beth Runnebaum, our budget specialist and the office manager.

We hope you will all join us in giving Shonda a warm welcome to the CURB team.

Terms Expire for 3 CURB Board Members

The appointments of three CURB board members have expired. One member, Chair Gene Merry, has decided to seek reappointment.

Board members Francis X. Thorne and Nancy Wilkens have decided not to seek reappointment to the board.

Governor Sebelius is in the process of recruiting and interviewing candidates to fill their seats on the board.

Thorne and Wilkens will remain on the board until their replacements have been appointed by the Governor. Merry will also remain on the board until he receives word whether he is reappointed.

Thorne, of Leavenworth, and Wilkens, of Great Bend, both plan to focus on their careers.

The Staff at CURB wishes to express our sincere appreciation for the dedication that these volunteers have demonstrated in supporting CURB's mission to protect consumers.

We wish them both the best of luck in their future endeavors.

IT'S YOUR TURN: Speak Out Against Electric Rate Increases!

Public hearings give customers the opportunity to address members of the Kansas Corporation Commission directly, and to ask questions of representatives of the Commission Staff, CURB, and the utility company. Exercise your right to speak out by attending one of the public hearings.

Westar Energy Customers:

Pittsburg

**Thursday, September 8 at 7:00 p.m.
Memorial Auditorium and Convention Center
Room B-6, Lower Level
503 North Pine**

Topeka

**Monday, September 26, 2005
Kansas Corporation Commission
Main Floor Hearing Room
1500 SW Arrowhead Road**

Salina

**Monday, October 3, 2005
Salina Bicentennial Center
Heritage Hall
800 The Midway**

Wichita

**Thursday, October 6, 2005
Sudermann Commons, WSU Campus
1845 Fairmount**

Empire District Customers:

Baxter Springs

**Tuesday, September 27 at 7:00 p.m.
Baxter Springs Community Center**

**CURBside
is brought to you by
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***CITIZENS' UTILITY
RATEPAYER BOARD***

(CURB)

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MEMBER**

**NANCY WILKENS –
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**CAROL FAUCHER –
MEMBER**

CURB Opposes GTI Surcharge

CURB filed comments opposing making ratepayers pay a surcharge added to their natural gas bills for research and development conducted by the Gas Technology Institute (GTI).

GTI is the successor-in-interest of the Gas Research Institute, which was funded by a FERC-ordered surcharge on interstate pipelines from the late 1970s until 2004. When FERC determined that the supposed beneficiaries of GTI's research and development activities were opposed to continuing mandatory funding, it ordered an end to the pipeline surcharge.

That's when GTI took its show on the road, trying to sell state commissions on the idea of funding GTI at the state level through mandatory surcharges on customer bills. It has had limited success in securing funding thus far.

CURB's comments pointed out that GTI has not done a good job in proving that the benefits accrued from its research and development actually benefit the ratepayers who pay for it. We also questioned why, if GTI produces good research and product ideas, manufacturers aren't lining up to help fund the organization. GTI has secured very little funding from non-public sources, and its revenues from previous developments is apparently insufficient to sustain GTI's activities.

Finally, with natural gas prices so high, CURB questioned whether putting yet another surcharge on customer's bills is the right thing to do.

GTI has requested a hearing before the Commission. We'll keep you posted.

KCC Docket No. 04-GIMG-814-GIG

Low-Income Proposals Sought

The Commission issued an order on April 4 seeking further comments from the parties on whether low-income assistance tariffs could be structured in a way that generates enough cost savings to prevent subsidization by customers ineligible for the tariffs.

The Commission also asked for comments on demand-side management (DSM) programs that might address problems of low-income ratepayers.

On May 6, several utilities and CURB filed comments. The utilities were, for the most part, unsupportive of the idea that low-income programs could be structured without subsidies from ineligible ratepayers.

CURB believes that there may be programs that do generate enough cost savings to prevent unreasonable cross-subsidization, but helpful data is hard to find. We suggested that the Commission open a new docket to address proposed DSM programs, and deal with low-income issues separately.

KCC Docket No. 04-GIMX-531-GIV

Sour Gas: Problem, Solution Elusive

The natural gas field near Hugoton is a finite resource. In some counties in the Hugoton Field, pressures have dropped so low that producers can no longer afford to run the wells, and there isn't enough gas to keep a pipeline in business. As a result, irrigation that depends on engines fueled by natural gas to pump the water has been dramatically curtailed in some areas of western Kansas.

Recently, however, a new—and deadly—problem emerged in several areas of the Hugoton Field that have not yet been plagued by declining pressures.

In February, hydrogen sulfide, a deadly gas to humans and livestock, was detected at farm taps on gathering systems and pipelines metered by Aquila and Midwest Energy. The pipelines transporting the sour gas announced an emergency plan to disconnect the taps.

Most of the customers affected by this development were also using the gas in their homes.

Since these shutoffs occurred during winter weather, the utilities involved provided space heaters to the disconnected customers who were heating homes with farm tap gas until they could be switched to propane or another source of natural gas. A few irrigators were affected as well, but it was too early in the season to interrupt irrigation.

Sour gas is not a new problem in some areas of the country, but it's relatively new to the Hugoton Field, and getting more common than it used to be.

Hydrogen sulfide can occur naturally in a well, or can develop as the result of chemical treatments used to enhance recovery. There is some speculation that sour gas can also contaminate pipelines and turn sweet gas sour.

A well can be treated to reduce hydrogen sulfide to safe levels, or it can be removed at a processing station. However, hydrogen sulfide is corrosive to metal, so pipeline companies often set a maximum limit for levels of hydrogen sulfide in gas that they will transport. The pipelines in Kansas generally set the maximum at 4 ppm.

Interestingly, the level that is harmful to humans and livestock is higher—approximately 20 ppm. But the danger level can vary with the pressures in the pipe and other conditions.

Even at so-called "safe" levels, hydrogen sulfide can build up to unsafe levels in unventilated areas. Conversely, high levels can be dispersed with sufficient ventilation.

Unfortunately, without specialized equipment and constant monitoring, people can't be sure they are safe if any hydrogen sulfide is present in the gas they are using. It only takes a few whiffs of the gas to kill or permanently disable people or livestock.

It is understandable that the pipelines were trying to protect public safety and reduce their

liability by shutting off the taps, but some of those who lost their taps are upset because gas continues to flow through the pipelines. They say the gas is still "available" and that their contracts provide that they are entitled to have access to the gas so long as it flows.

However, the pipelines argue that although it is safe to transport the gas directly to treatment plants, it simply isn't possible for them to monitor taps in such a way that would guarantee the safety of people in the area of the taps.

Another complication is that levels of hydrogen sulfide can change overnight. Some taps that initially test as unsafe can test clean a day or two later.

State laws don't force producers with hydrogen sulfide to shut in. Pipelines can refuse to take the gas when it reaches unsafe levels of hydrogen sulfide, which often prompts the producer to treat the well, but the KCC has no power to order the producers to shut in wells or treat them. Some customers would like such laws to be put in place, because it might bring the gas that is available to them up to safe levels again, and permit them to reconnect to their taps.

Others are convinced that the pipelines are using the presence of hydrogen sulfide in a small percentage of wells to shut off taps they just don't want to fool with anymore.

One thing is clear: there are no easy solutions in sight. Most farm tap customers have contractual arrangements with a producer, a gathering system or

a pipeline, and the contract terms vary considerably from contract to contract. The specific terms of the contract govern whether disconnecting a tap from a pipe that is still transporting gas is a violation of the contract. Proving that it is a violation of the contract may require litigation.

The KCC and CURB have gotten a lot of calls from tap customers concerned about these shutoffs, but not all of them are under the jurisdiction of the KCC. Irrigators and other non-domestic users of taps who have contracted with a producer, gatherer or pipeline have little recourse under current law if their supply is discontinued other than to attempt to enforce their contract.

Only those customers who are metered and billed by a publicly-regulated utility are protected by KCC regulations that protect the customers of regulated utilities. Tap customers who use the gas for domestic use in their homes are protected to some extent by KCC Pipeline Safety regulations.

With many more producers of oil and gas in this state than irrigators, it is unlikely that the irrigators will succeed in persuading the legislature to enact laws that favor the irrigators' rights over those of the producers.

Additionally, although several states have enacted safety regulations that help protect the public against the dangers of

(See Sour Gas, page 9)

KCPL Seeks OK For Big, Big Plans

Kansas City Power & Light and the Staff of the KCC have asked the Commission to approve an agreement that will allow KCPL to undertake nearly \$1.3 billion of construction over the next 6 years. The construction plan will be financed through increased customer rates.

KCPL predicts that customer rates will increase approximately 20% over the next few years to pay for the projects.

CURB did not support the agreement.

Here are the basic details of the resource plan:

New coal plant. KCPL is proposing to build an 800-900 MW coal plant at the site of its existing Iatan plant near Weston, Missouri. KCPL will own 500 MW of the plant's capacity. KCPL claims that it needs the additional coal-fired generating capacity to meet Kansas City's ever-increasing power needs.

Environmental upgrades. KCPL plans to invest in equipment for its coal plants at Iatan and LaCygne to help reduce emissions of sulfur dioxide, nitrogen oxide and particulate matter.

Wind generation. KCPL will install and own 100 MW of wind generation in Kansas, with an option to install an additional 100 MW in the future.

Customer Programs. KCPL will spend \$50 million to implement a number of prog-

rams focused on helping customers use electricity more efficiently. Programs will focus on customer demand response programs, energy efficiency offerings and programs aimed at improving affordability for low-income customers.

Transmission and Distribution. KCPL will increase the automation of its transmission and distribution systems to increase reliability.

Someone's got to pay for all these changes, of course, so the agreement also includes a regulatory plan:

Frequent rate cases. KCPL can file as many as four rate cases over the next five years seeking to recover its investment. As noted above, KCPL predicts that rates will increase 20% over the term of the plan.

Guaranteed cash flow via customer contributions. The KCC Staff has agreed to support an unprecedented regulatory mechanism that will guarantee KCPL sufficient cash flow to meet certain financial requirements set by Standard and Poor's bond rating service. If the KCC's decisions in the rate cases do not provide KCPL enough cash flow to meet specified ratios, the KCC Staff will ask the Commission to further increase rates to meet the guarantees.

Customers whose rates are increased by the adjustment (and who will be investors in KCPL) will receive a credit against the plant balances in later rate cases.

Energy Cost Adjustment. KCPL will be allowed to pass fuel costs directly to customers

on a monthly basis through an energy cost adjustment on customer bills. This provision will allow KCPL to increase rates monthly, as needed, to recover fuel costs. Customers will receive a credit from off-system sales revenues.

Other rate issues. KCPL and Staff have agreed to several other accounting and rate issues that will allow KCPL to: market sulphur dioxide allowances, create a regulatory account for KCPL pension expenses, set discounted carrying charges for funds used during the construction period, create amortization accounts for the costs of customer programs and set depreciation rates.

The KCPL/Staff plan is the culmination of over a year of negotiations. The Missouri Public Service Commission recently approved a similar plan.

At a public hearing in Kansas City in June, several environmental organizations, civic groups and individual customers vocally opposed the KCPL / Staff plan for Kansas.

CURB has reviewed the resource plan, and concedes that KCPL will probably need additional capacity in the future to meet Kansas City's growing power demand. The environmental upgrades should also benefit Kansas City, which has been under intense pressure recently from the U.S. Environmental Protection Agency to make progress on the metro area's clean air attainment requirements.

However, CURB does not agree with the proposed regulatory plan.

Under the KCPL/Staff plan, KCPL will receive unprecedented revenue guarantees based on requirements dictated by an outside bond rating agency. To provide these guarantees, the Commission will approve increases in customer rates over and above the level that the Commission would normally grant under current ratemaking policy.

Essentially, KCPL and Staff are proposing to force KCPL customers to become involuntary investors in KCPL's growth strategy. KCPL and Staff argue that this may reduce customer costs over the long term, but that remains to be seen.

CURB is highly skeptical about forcing a utility's customers to bear the expenses of providing revenue guarantees to protect the utility's bond holders and shareholders. In proceedings before the KCC, CURB argued that we shouldn't go down the path in Kansas of providing revenue guarantees to utilities to protect their investors.

As of this writing, the Commissioners have not decided whether to approve the KCPL / Staff plan.

However, if the plan is approved, as it was in Missouri, KCPL customers should brace for a 20% increase in their electric rates. Further, if the energy cost adjustment is approved, KCPL will be passing straight through to customers the rapidly-rising costs of natural gas and coal.

Sadly, the projected 20% increase may be the floor, not

the ceiling, for rate increases over the next five years.

Editors Note: As we went to press, over the objection of CURB, the KCC issued its Order Approving the KCPL/Staff plan on August 5, 2005. CURB is reviewing its legal options.

(KCC Docket No. 04-KCPE-1025-GIE)

Sour Gas

(Continued from page 7)

hydrogen sulfide, Kansas has had little need for such laws until recently.

Niki Christopher of CURB is one of several members of a statewide task force headed by Leo Haynos of the KCC that is meeting regularly to seek long- and short-term solutions to this problem in the Hugoton Field.

Members include experts on pipelines and gathering systems, irrigators, geologists, engineers and a variety of stakeholders such as royalty owners and land owners. And, of course, a few lawyers knowledgeable about oil and gas law and KCC regulations.

Several subcommittees of the task force are gathering wellhead data on sour gas in the hopes of coming to a better understanding of where the hydrogen sulfide is concentrated and whether its presence is the result of natural conditions or caused by human activities.

One subcommittee is building a database of idle pipeline segments that might be utilized to bring clean gas out to areas that have lost their supply.

Another subcommittee is looking for effective ways to educate the public about the dangers of sour gas. Others are looking into other states' regulations in the hopes of finding guidance for Kansas in dealing with this problem.

CURB has two primary concerns. Number one, of course, is the public's safety. Hydrogen sulfide is a very dangerous gas. Its hazards should not be treated lightly. A few whiffs can kill or seriously injure a person.

Our second concern is money. The expense involved in extending a utility's distribution system to a few isolated customers in rural areas makes us hesitant to recommend this option.

Although CURB agreed that it was appropriate for Aquila and Midwest Energy to provide optional heating for their customers who were disconnected during winter weather, CURB does not believe that it is fair to stick the ratepayers with the bill for converting them to propane, because they will never make a contribution to the cost of that conversion through paying utility bills.

The KCC is posting information on the task force meetings and other relevant information on its web site. Go to www.kcc.state.ks.us and click on the link to "Impacts of H₂S and Low Pressure in the Hugoton Field."

KCC Docket Nos. 05-CONS-214-CMSC and 05-CONS-222-CMSC

Uncollectibles Policy Changes

The KCC recently overturned thirty years of policy precedent. Ignoring CURB's objections, the Commission changed its policy on the method that the gas utilities in Kansas are allowed to use to recover the costs of uncollectible bills.

Yes, we as ratepayers provide money to the utility to reimburse them for bad debts. Traditionally, however, between rate cases, the utilities could not increase rates to increase the amount they recovered for bad debts. Instead, a certain amount of money has been built into customer rates in every rate case to account for customers that don't pay their bills.

That changed when Kansas Gas Service Company, Atmos Energy and Aquila convinced the Commission to change its longstanding uncollectibles policy.

The gas companies requested the authority to adjust retail customer rates by using the Purchased Gas Adjustment to recover the amount of uncollected gas costs due to bad debts of retail customers. The cost of gas accounts for about 70% of the total customer bad debt costs.

Over the last few years as natural gas prices and heating bills have increased, the level of bad debts at the utilities has risen as customers struggle to pay their heating bills.

Under the new Commission policy, the utilities will now

charge the gas portion of bad debt directly to customers each month, instead of having to wait for a rate case to reset the bad debt level built into customer rates. When the amount of bad debts increase, customer rates will increase every month.

CURB objected to this change because it increases customer rates between rate cases, and—more importantly—it transfers bad debt risk from the utilities to their customers.

Further, there was simply no justification for the policy change, other than the fact that the utilities would rather have their customers bear the risk for rising bad debt than their shareholders.

The Commission, in summary fashion, simply agreed with the utilities and changed the policy.

So much for 30 years of precedent: your gas rates just went up.

KCC Docket No. 05-ATMG-643-GIG

Commission Approves Gas Hedging Plans

The Commission recently approved the terms under which the natural gas distributors in the state will hedge natural gas supplies for the coming winter months. The Kansas Gas Service Company, Aquila, Atmos Energy and Midwest Energy have all adopted hedging plans.

The goal of the gas hedging plans is to purchase

financial instruments in the market that will help reduce exposure to price volatility in the natural gas markets. Think of hedging as an insurance policy purchased to protect against spikes in the price of natural gas this winter. That's an overly-simplistic explanation, of course, but hedging will hopefully provide consumers some protection this winter against prices that spike much higher than current levels.

Hedging won't reduce the current market price for natural gas that goes on customer bills, which is at a record high, but will help keep winter heating bills more manageable than they might be without the protection.

You will notice on your gas bills a line item labeled "hedging cost", or some similar name. The Commission approved charges based on about \$1.75 per customer per month to fund the hedging programs. The charge is collected through volumetric charges only during the summer months, so your actual monthly charge for hedging will likely be higher than the \$1.75 until winter.

The Commission, CURB and the gas utilities held a series of customer focus groups over the last year. In general, these focus groups thought paying extra to provide this type of protection against price spikes was worthwhile. In general, the groups thought that paying about \$2.00 per month was a reasonable price for the protection. Partly based on these findings, the Commission approved the program terms for

this year over the past few weeks.

CURB has supported the hedging programs over the last few years, and believes the protection provided is worthwhile.

However, CURB cannot stress enough that with or without the hedging programs, heating bills this winter will be at record levels. Customers should be preparing now for the coming winter. Making conservation efforts in your home may save you hundreds of dollars this winter.

Governor Signs New Bill Creating Transmission Authority

Governor Kathleen Sebelius recently signed into law House Bill 2263, which creates the Kansas Electric Transmission Authority.

The purpose of the KETA is to “insure reliable operation of the integrated electrical transmission system, diversify and expand the Kansas economy and facilitate consumption of Kansas energy through improvements in the state’s electric transmission infrastructure.”

The KETA, like the Kansas Turnpike Authority, is an independent government entity with almost unlimited power, including the power to exercise eminent domain for the purpose of building transmission lines throughout the state.

The KETA can propose new transmission lines and take out loans to finance and build them anywhere within the state—so long as no other private entity is willing to build the line, and so long as the Southwest Power Pool has determined that the line is “compatible” with its transmission plans.

The KETA is not subject to the jurisdiction of the Kansas Corporation Commission, except that it must obey wire-stringing rules and will be recovering its costs through KCC-ordered increases in utility customer rates.

The KETA is run by a seven-member board. Four members of the board are dictated by the law: the chairperson and ranking minority members of the Senate Utilities Committee and the House Utilities Committee. The three remaining board members are appointed by the Governor.

Significantly, only four board members are required for a quorum, and only four board members are required to take binding KETA action.

For all practical purposes, this means that the KETA could be controlled by the four legislators sitting on the board.

CURB can think of no other unit of government with such extensive powers that can be controlled by only four members of the legislature.

This past legislative session, CURB testified against the bill that created KETA before the House and Senate Utilities Committee.

It’s not that we don’t understand that there may be

some benefits from building additional electric transmission lines in the state in some instances. In particular, it may be of great benefit to the western portion of the state, which wants to develop more wind power plants, but lacks sufficient transmission capacity to handle the additional power they would generate.

However, there are no limits in this law to protect utility ratepayers from having to pay for transmission that their utilities really don’t need, or from having to pay more for KETA-ordered transmission projects than the benefits that are derived from the additional transmission.

KETA will have virtually unlimited powers to build electric transmission lines—and to reach into the ratepayers’ pocket books to pay for them. CURB does not believe this mix will add up in the utility customer’s favor at the end of the day.

One more thing: the legislature passed a law not long ago that allows the Kansas electric utilities to pass transmission costs directly to customers as a line item on the electric bill. Westar Energy, in its current rate case, is the first electric utility before the KCC to seek this authority. Once the Commission approves this line item charge, transmission costs on customer bills can increase between rate cases. CURB assumes that any costs of KETA-built transmission lines will also be included in this line item charge on customer bills.

Consumer Counsel's Corner

I'm spending a lot of time in the Corner these days thinking about risk.

No, not risk as in, "Will I crash my car tonight on the drive home?"— which is certainly a valid concern if you've driven the Kansas Turnpike lately.

No, the risk I keep running into headlong here in the Corner has to do with your utility rates, and who is at risk for changing utility costs. While I can rattle off any number of cases we're fighting right now, on any number of issues, the central theme in almost any utility case at the Commission, and frankly, with any law considered by the legislature, has to do with risk.

Let me explain. In the good old days, the utility had a rate case, and then couldn't change its rates again until it had another rate case. The utility was at risk if its costs changed, and shareholders were compensated through returns on equity for accepting this risk.

Fast forward to today. The gas utilities succeeded in getting more bad debt costs passed directly to customers in the purchased gas adjustment.

Utilities have also implemented weather adjustment mechanisms that make sure they earn their allowed revenues between rate cases.

Empire and Westar are asking to impose an energy cost adjustment, to pass changes in natural gas and coal prices directly to consumers on their bills.

Aquila and Midwest Energy already have energy cost adjustments on their bills. Westar will institute a transmission line item to pass changing transmission costs directly to customers on the bill.

The Kansas City Power and Light plan is designed around a mechanism that protects KCPL's revenues, at customer expense, during its five-year construction plan. KCPL is also allowed to implement an energy cost adjustment and transmission line item under the plan it has before the Commission.

What do all of these cases have in common? The utilities are moving the risk of changing costs directly onto consumer bills.

Now, if fuel costs increase, utilities are protected—and you pay. Bad debt costs increase, utilities are protected—and you pay. Construction costs are high, utilities are protected—and you pay.

I'm sure you're getting the picture. In fact, I'm sure you get the picture each and every month when you open your utility bill.

Okay, to be fair, I suppose I should also tell you that if costs come down, these mechanisms pass the savings directly to customers, too. But I'm still waiting for that to happen.

The one thing we're also waiting for that hasn't happened yet is for the Commission to

order a reduced return to the shareholders in return for the reduced risk. Although customers carry more and more of the risk of increasing costs, returns on equity—i.e., the profits paid to shareholders by ratepayers—have not decreased.

There's a basic financial principle that tells us that when the risk that you'll lose money on an investment is reduced, you should expect reduced returns on that investment.

Apparently, however, this does not apply in utility regulation.

Most of us are painfully aware that costs are increasing for utility service. It's not so easy to see, however, who increasingly bears the risk that costs will change.

I'll give you one guess.

Watch your monthly utility bills: I'm sure you'll get the right answer.

So what's my advice to you? Conserve, conserve, conserve!!!

Springe Named VP of NASUCA

CURB is proud to announce that Consumer Counsel David Springe was recently selected to serve as vice-president of the National Association of Utility Consumer Advocates.

John Perkins (Iowa), NASUCA's current president, appointed Springe to serve the unexpired term of John Coffman, the former Consumer Counsel in Missouri who was terminated by Missouri Governor Matt Blunt.

Line Repair is Dangerous Work

While the community of Kingman prepared to join together to raise money to help a lineman who was severely injured while making repairs during the ice storm last January, another lineman was killed in Independence, Missouri, while repairing lines damaged during a thunderstorm.

Tim Goldston, a lineman for City of Kingman, sustained severe burns on his arms and hands last winter when he touched a fuse he thought was dead—and was shocked by 12,700 volts.

Steve Ebert had been sent from his hometown of Columbia, Missouri to help the Independence's Power and Light Department repair storm damage. On June 10, he was electrocuted when he touched his vehicle, which was in contact with a live power line. Another lineman sustained minor injuries. Ebert is survived by a wife and three children.

These tragic deaths are a reminder that keeping our electricity flowing can be dangerous work. The severity of Golston's injuries is also a sobering reminder of how fatigue contributes to workplace injuries. He had been working for 38 hours straight at the time of the accident, reconnecting power for hundreds of residents in Kingman who had no power.

The burns Golston sustained left him no use of his hands, leaving him dependent on his wife, Kari, and their four

children for just about everything when he returned home after having spent almost 60 days in a burn unit in Wichita. Kari has had to give up working to help her husband during his recovery.

The benefit, held Saturday, June 18 in Kingman, was intended to raise funds to help his family with the expenses of a trip to Kentucky for special surgery, and to recover from the financial setback dealt the household as a result of the accident.

While CURB is often at odds with utility companies, we are grateful for the individuals who toil in inclement weather to keep the power flowing.

We cannot emphasize enough to our readers the danger of touching power equipment that has been damaged by a storm. Call your local utility to report the damage, and stay well away from downed lines or poles and the crews working on them until they are repaired.

Energy Efficiency Conference

Topeka will be the site of The Kansas Renewable Energy and Energy Efficiency Conference on September 21 and 22.

The featured speaker this year will be Randy Udall, who is Director for the Community Office of Resource Efficiency in Colorado.

Governor Kathleen Sebelius has been invited to make the opening remarks.

This meeting has become an annual gathering place for regulators, industry representatives, legislators, students and members of the public who are interested in learning more about such topics as generation of power with wind, biomass, and solar plants.

The KCC Energy Office is hosting this year's conference.

Persons interested in attending this year's conference may find registration information and program schedules at: <http://24.124.26.33/ksrenew/conference/index.html>.

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