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 DEC. 2011

KCPL seeks $9.1 million to pay outside help who fought for increase

KCPL is asking its customers to pay $9.1 million in costs relating to KCPL's recent rate case. Of that amount, KCPL spent $7.7 million on outside lawyers and outside consultants to litigate the rate increase. The $22 million increase approved by the KCC earlier this year included an amortized portion of $5.6 million in rate case expense approved by the Commission. Both CURB and KCPL sought reconsideration of the $5.6 million awarded by the Commission.

KCPL hired 40 lawyers who worked over 14,200 hours on the case. The average hourly rate paid for the lawyers was $345, with hourly rates as high as $855. KCPL also hired 45 consultants who billed 11,350 hours on the case. CURB doesn't think ratepayers should have to pay for KCPL's open checkbook policy regarding rate case expense.

A hearing on the matter was

(See **KCPL legal costs**, page 3)

Westar Energy seeks $91 million increase

On August 25, Westar Energy filed a request with the KCC to increase its rates by $91 million annually. The company cited higher costs for tree trimming, regulatory compliance and employee benefits among the primary reasons for the request, as well as lower energy sales for the test year that ended March 31. Westar says bills will increase by an average of 5.8%.

Westar is requesting a 10.6% return for shareholders.

CURB has filed a petition to intervene in the case. The Commission's order will be due out in April 2012.

The public hearings on the request were held in Topeka on November 29 and in Wichita on November 30, with video hookups to remote locations on both evenings. Only twelve or so customers attended the Topeka hearing, but a raucous crowd of around 125 people attended the Wichita hearing, including a contingent of Occupy Wichita protesters.

Regarding the company's

(See **Westar increase**, page 2)

Empire District Electric settles for $1.25 million increase

On June 17, Empire District Electric filed a request with the KCC to increase its rates by $1.5 million per year. This request was filed pursuant to an agreement reached in its rate case last year to allow Empire to file an "abbreviated" rate case this year. This request is limited primarily to allowing Empire to claim recovery of costs of two generation plants that were still under construction last year. Empire estimated that the increase would increase customer rates by 6.39%. New rates would likely go into effect in early 2012.

CURB's witnesses filed testimony in the case on October 12. Andrea Crane recommended that the KCC limit the proposed increase to $1.1 million. She recommended reducing several components of Empire's request, including costs related to Empire's share of the new Iatan II plant.

Brian Kalcic filed testimony recommending modifications to Empire's rate design that would

(See **Empire increase**, page 2)

Westar increase

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application, CURB is concerned about the fact that 24% of Westar's $4.5 million in rate base assets are now excluded from base rates. Depreciation and earnings on $1.1 billion of Westar's transmission and environmental assets are now flowing through riders.

Why does this matter? For one thing, because depreciation and earnings on transmission assets are embedded in FERC rates, which are presumed reasonable by the KCC, and passed along to customers in the transmission rider without review or modification. These rates won't change as a result of the rate case at the KCC.

For another thing, transmission assets earn higher rates of return from FERC than the rest of Westar's assets. For older transmission assets, the rate of return is 11.3%, and newer transmission assets are earning 12.3% under FERC incentive rates.

Assuming that Westar will be awarded a rate of return of around 10% in this rate case like other utilities that have recently had rate cases, over 15% of Westar's capital assets will continue to earn 11.3% to 12.3%, which is 1.3% to 2.3% more than its other assets. Furthermore, FERC allows a 15-year depreciation schedule on new transmission projects—which means a faster payback to the utility, lower risk for shareholders and higher annual costs passed to consumers.

The upshot of this shift of revenues from base rates to riders is that consumers have less impact on the process of determining the rate increases granted to Westar. CURB simply does not have the authorization, budget or personnel to go to Washington D.C. to fight FERC rate increases. Moreover, when utilities can earn premiums of almost 2.5% on new transmission investments and get a much faster payback from ratepayers, utilities have a tremendous incentive to build new transmission lines.

CURB is concerned that Kansas may be subject to overbuilding of the transmission grid unless the FERC is willing to ease back these generous incentives to utilities.

The incentive to overbuild is also fueled by the popularity of wind power with politicians in Kansas, who view building transmission lines and wind farms as keys to a revival of economic growth in rural Kansas. However, all this building comes with a price that is driving up electric rates. CURB hopes that the rising price of power doesn't drive traditional industries out of the state. It would take a lot of wind farms and transmission projects to offset the economic loss of one major aircraft plant. We urge policy makers to move forward cautiously, and to seek credible data supporting the assumptions being made about value of transmission lines and wind farms in fueling economic development. We all want Kansas to improve its economic outlook, but doing it at the expense of affordable electric rates may not be in the state's long-term economic interests.

KCC Docket No. 12-WSEE-112-RTS

Empire increase

(Continued from page 1)

continue the process of moving toward rates that encourage conservation, a process that began in Empire's last rate case. Mr. Kalcic recommended reducing the deep discounts during warm months on rates for all-electric homes, and maintaining an affordable first block of power for all residential customers.

Given that the abbreviated nature of the case presented fewer issues in dispute, CURB, Empire and KCC Staff have negotiated a settlement of the case that will provide Empire a reduced increase of $1.25 million. The parties also reached agreements on several contentious issues concerning Empire's share of the costs of projects at KCPL's Iatan plants. The rate design continues the process of reducing the discounts for all-electric customers, but didn't go as far as CURB proposed.

The parties agreed to submit the agreement to the Commission on the paper record, and to forego an evidentiary hearing. The Commission's order approving or rejecting the settlement must be issued on or before February 13, 2012.

KCC Docket No. 11-EDPE-856-RTS

KCPL legal costs

(Continued from page 1)

held in September. CURB recommended that the KCC limit KCPL's recovery of rate case expenses from its customers to $2.1 million, but offered other alternatives that would still limit KCPL's recovery to less than half of what it requested. One alternative would be to limit KCPL's recovery based on what the KCC Staff and CURB spent on the case. For comparison, KCPL spent $7.7 million to litigate the rate case, while CURB spent $188,000 and Commission Staff spent $1.2 million.

This is a fight over money, of course, but it is also a fight to preserve fairness in the rate setting process. Consumer advocacy agencies like CURB are limited by tight government budgets and simply don't have the resources that utilities do, nor the inclination to spend the exorbitant amounts KCPL was willing to spend. Ratepayers will never get a fair deal if utilities can spend unlimited amounts in support of rate increases because they know they can simply pass on the costs to their customers. The amounts spent by KCPL on this rate case were unprecedented: it spent $7.7 million to win a $22 million rate increase.

Think of it this way: if the KCC approves all of KCPL's rate case expenditures, it will be approving an open checkbook policy for utilities for rate case expense, but the utilities will be writing those checks from ratepayers' checkbooks. CURB has strongly urged the KCC to put a stop to this runaway spending by utilities at ratepayer expense.

KCC Docket No. 10-KCPE-415-RTS

KCC approves $1.7 rate increase in Midwest Energy settlement

CURB, the KCC Staff and Midwest Energy have reached a settlement on Midwest's request for a $3.3 million increase. The KCC order approving the settlement agreement was issued on October 19.

The settlement provides that Midwest will receive a $1,706,869 million increase and agrees that Midwest will not seek recovery of certain costs related to the acquisition of the "W" system customers from Westar in 2005. Industrial customers and an individual who intervened in the case agreed not to oppose the settlement.

KCC Docket No. 11-MDWE-609-RTS

Black Hills GSRS application approved

Black Hills Energy has applied to increase its Gas System Reliability Surcharge (GSRS) to $1.13 per month. The increase would amount to a 40 cent per month increase for a residential customer. That is the maximum increase allowed per year by statute.

Black Hills has agreed to remove some costs arising from damage caused by a third party to gas lines owned by Black Hills. This small adjustment will not affect the increase. CURB agreed with Staff that making this adjustment eliminated any objections they would have to the application, so the parties filed a joint motion to resolve the docket without an evidentiary hearing. The Commission approved Black Hill's adjusted application on November 9.

KCC Docket No. 12-BHCG-055-TAR

Clean Line seeks KCC certification as public utility

A unique kind of transmission line will be built in Kansas if Clean Line Energy Partners reaches its goals. The company has applied for a limited certificate of convenience for transmission rights to site, build and operate a 550-mile 500kV to 600kV high voltage direct current (DC) transmission line that would begin near Spearville and end at the St. Francois substation in southeast Missouri.

The line, which the company has dubbed the Grain Belt Express, would be built to carry power from wind farms in the Spearville area to the MISO region, which is more densely populated and has poorer quality wind resources than western Kansas. The company estimates that the project will cost $1.7 billion and will traverse about 300 miles through Kansas.

Intriguingly, the Grain Belt line will be financed entirely by investors, rather than by ratepayers. While CURB is still examining the company's application, we have to admit that we rather like the idea of building transmission lines without customers paying the bills.

On October 7, 2011, Clean Line, Energy for Generation, LLC, the KCC Staff,and CURB reached an agreement based on the filed positions of the parties. The agreement anticipates the granting of a certificate of convenience and necessity to Clean Line for its high voltage direct current (HVDC) project, which includes converter stations, lines to connect the converter station to the Southwest Power Pool (SPP) and the alternating current gathering lines necessary to connect Kansas wind generators to the HVDC line, conditioned on Clean Line's representation that it will use a cost allocation methodology that does not seek direct cost recovery from SPP or the Kansas ratepayers. Further, Clean Line will provide to the Commission's Executive Director, Director of Utilities and General Counsel quarterly reports with updates on the status of the project. The parties to the agreement also agreed to waive cross-examination of each other's witnesses at the evidentiary hearing on October 10.

Westar and ITC did not sign the agreement, but raised concerns at the hearing about the operation of Clean Line's planned AC collector lines and how they will be integrated with other distribution lines in the region. ITC filed its objection to the agreement on October 20.

The Commission's decision in the case is due out by December 22, 2011.

KCC Docket No. 11-GBEE-624-COC

SmartStar recovery tentatively approved for Westar

On October 19, the Commission gave qualified approval to Westar Energy to recover some of the costs of the SmartStar project in Lawrence. Westar is installing so-called "smart meters" in a section of northwest Lawrence as a pilot project that is funded in part by a federal grant. Westar sought recovery of the expenses of the project not covered by the grant, and included amounts for depreciation on capital investments and carrying charges, and requested recovery through the company's Energy Efficiency Rider.

The Commission agreed that Westar should be able to ask for recovery of its expenses for the project in its upcoming rate case proceeding, but expressed concern about passing these costs through the Energy Efficiency Rider.

The Commission directed the parties to be prepared in the rate case to propose a policy or practice for the accounting treatment of depreciation and carrying costs, indicating their opinions on whether these costs should be recovered through traditional rate-making processes, or through the Energy Efficiency Rider.

KCC Docket Nos. 11-WSEE-610-ACT and 12-WSEE-112-RTS

GSRS increase approved for KGS

On September 1, 2011, Kansas Gas Service applied for an increase in its Gas System Reliability Surcharge tariff. Since it has been five years since its last rate case, KGS also requested permission for a one-year extension of the GSRS. The Commission approved the one-year extension on October 19.

KGS requested a monthly 30 cent increase in the surcharge for residential customers. If approved, the surcharge will increase to $1.13 per month.

Staff and CURB did not object to the extension, but Staff identified roughly $25,000 in projects that do not qualify for recovery through the GSRS. KGS agreed to the reduction in its request. The Commission's order approving the adjusted application was issued on November 23, 2011.

KCC Docket No. 12-KGSG-138-TAR

Call **211**
for information about obtaining assistance with utility bills from agencies and programs associated with the United Way in Kansas.

Consumer Counsel David Springe (left), presents a plaque commemorating the service of longtime CURB board member Bill Dirks at an AARP meeting in Wichita. Bill served on the CURB board longer than any other member.

Governor appoints two new CURB board members

Governor Sam Brownback has appointed two new members to the CURB board.

In June, Robert Harvey joined the CURB board as the at-large member. A resident of Topeka, Mr. Harvey is retired from a career in California state government. He is an active volunteer for AARP. He replaces Nancy Jackson, who is now representing the Third Congressional District on the CURB Board. Jackson was appointed to fill the seat vacated by Carol Faucher when she was not reappointed.

In August, Ellen Janoski was appointed to represent the Fourth Congressional District. Ms. Janoski, who resides in Peck, is a homemaker and is an active volunteer in several organizations.

Janoski replaces long-time board member Bill Dirks of Wichita, who was not reappointed.

Farewell to CURB board members

The Staff of CURB has bid fond farewells to two board members, A.W. “Bill” Dirks and Carol Faucher, whose terms were not renewed by Governor Sam Brownback when they expired this summer.

Bill Dirks of Wichita had served on the board since 1995, making him our longest-serving board member during the history of CURB. For most of his tenure on the board, he served as Chair or Vice-Chair, and was always an active participant in discussions among the members. His guidance was a steady and forthright force that kept CURB always moving toward its mission of serving consumers. We will miss his thoughtful comments and unwavering support of CURB’s staff. We’ll also miss seeing his lovely wife, June, who accompanied him on many of his trips to Topeka.

Carol Faucher of Leawood had served on the board since 2003, and she, too, was steadfast in her support of CURB’s mission. She served diligently, through serious illness and chaotic work schedules, attending meetings by phone when she was unable to make the trip to Topeka. We will miss her cheerful demeanor and keen understanding of utility issues.

We wish Bill and Carol the best in their future endeavors. CURB is a better organization because they were willing to serve and give us their best. ♦

CURB

Citizens' Utility Ratepayer Board

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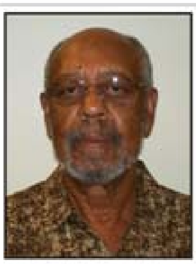

ROBERT L. HARVEY – MEMBER
TOPEKA

KCC approves Midwest Energy GSRS increase

Midwest Energy applied for a $127,941 Gas System Reliability Surcharge increase in June of this year. If the entire amount requested had been approved by the KCC, the increase would have been 17 cents per month for residential customers.

However, Staff's audit of the cooperative's application recommended removal of $61,380 for projects that did not meet the criteria for inclusion in the GSRS.

The Commission accepted Staff's recommendation for a $109,769 increase on September 26. The resulting monthly increase for residential customers wasn't stated in the KCC order, but we're guessing it will be somewhere around 14 cents a month.

KCC Docket No. 11-MDWG-862-TAR

Empire EE rider rejected by Staff

In a report and recommendation filed on October 13, the KCC Staff recommended denial of the Empire District Electric Company's request for an Energy Efficiency Rider.

Empire has requested recovery of $27,062 in various costs related to energy-efficiency programs that it offers its customers. Staff recommended denial of costs related to travel in other dockets and costs incurred in planning the programs. The report said that only $16,494 of Empire's claim is appropriate for recovery.

However, Staff noted that the Commission's policy is to grant recovery of energy-efficiency-related costs through riders only if the costs incurred are "significant." Staff does not believe $16.5 thousand represents a "significant" amount under current Commission guidelines. Therefore, the Staff recommended against approval of the company's application, and suggested that the Commission could consider allowing Empire to recover the costs in its abbreviated rate case that is currently before the KCC.

The settlement agreement reached by the parties in Empire's rate case provides that Empire shall be allowed to recover these costs in rates over a four-year period. The KCC's order on the rate case application is due out in February.

KCC Docket No. 12-EDPE-141-TAR

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Consumer Counsel's

CORNER

We're getting ready for the holidays here in the corner. No, we're not hanging lights, baking cookies and wrapping presents. What we're really doing here this holiday season is getting ready to file testimony in Westar's newest rate case. Westar asked for another $91 million rate increase. We will file our position on January 5 . . . Happy New Year!

Westar is on track to hit $400 million in rate increases between 2009 and 2012, and that's not counting the rate impact of the $91 million Westar just requested!

If you are a Westar North (old KPL) customer, and you use 1500 Kwh during a summer month, your bill in the year 2000 was $105. That same bill in 2011 is $165, 57% higher, and that doesn't include the $91 million Westar just requested or another $100 million that Westar says it will charge in its line item charges.

Here's how the numbers stack up: In 2009, Westar had a general rate increase of $130 million. On top of that, Westar increased its transmission charges $31.8 million and its environmental charges $32.4 million.

In 2010, Westar had a general rate increase of $17 million, and then increased its transmission charges $6 million and its environmental charges $13.5 million. Westar also added a new $5.8 million energy-efficiency charge in 2010.

In 201, Westar increased its transmission charges $17.4 million, its environmental charges $11.2 million and its energy-efficiency charges by $5 million. That's $270 million since 2009.

In 2012, Westar says it will increase its transmission charges by $24 million, its environmental charges by $21 million and its energy-efficiency charges by $3 million. In addition, by the end of 2012, Westar will have added about 600 megawatts of wind energy to its system, and $70 million of the cost associated with that wind will be in the fuel cost charges on your bill. That $70 million is in addition to all the other increases above, so if my math is right that's about $388 million of increases through the end of 2012.

And that doesn't include the $91 million increase in front of the Commission right now. While I'm pretty sure Westar isn't going to get all of the $91 million it wants, if it did, we'd be looking at a total Westar revenue increase of $479 million between 2009 and 2012. That's $479 million that is no longer in your pocket when you go to your local grocery store, your local bookstore, your local car dealer or anywhere else you might want to spend your money.

Westar says it will spend another $2.3 billion on capital projects between 2011 and 2013. We here at CURB will fight to keep the increases as small as possible, but the reality is that your electric rates will continue to go up. Especially if no one has the political fortitude to simply say "no" occasionally to Westar.

We may get around to hanging holiday lights here in the corner, but we sure aren't going to plug them in and turn them on. We have to cut back somewhere.

—Dave Springe

CURBside is brought to you by the Staff of CURB:

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Energy Efficiency: Again

On November 9, 2011, the KCC opened a new docket to investigate the need for further clarification into energy-efficiency policies. You may remember that the Commission spent nearly two years on investigating energy-efficiency policy a few years back. These two dockets, referred to as the 441 and 442 dockets, established KCC policy goals on energy-efficiency programs, provided guidelines for utilities to recover their costs, and discussed the availability of performance incentives for utilities offering energy-efficiency programs.

The final list of topics for investigation is still under construction. On November 29, 2011, several parties met to discuss a variety of topics, including:

1. Should decoupling proposals from natural gas utilities continue to have to be submitted in conjunction with energy-efficiency proposals, or may a utility independently ask for decoupling in a rate case?
2. Performance incentives – including what programs are eligible for performance incentives, what type of incentive mechanism is most appropriate, and how savings from energy-efficiency programs should be estimated.
3. Program cost recovery – including whether utilities should be allowed to recover estimated or budgeted costs before spending any money on energy-efficiency programs, or whether the current cost recovery mechanism (the utility spends money on EE programs and then files an application to recover the actual expenditures) is still the best way to recover program costs.

While the list of specific topics is still uncertain, it is certain that a lot of utilities, Staff and CURB resources will be dedicated to this docket. At the November 29, 2011 prehearing conference, CURB counted nearly 30 people – Staff, CURB, and utility attorneys and representatives – that were either in attendance or participating over the phone. That means more of your money being spent on utility attorneys and analysts, to clarify topics that the Commission Staff, utilities, and CURB investigated just a few short years ago.

The Commission Staff reports that since the orders in the 441 and 442 dockets in late 2008, the utilities, Staff and the Commission have all expressed difficulties in applying the Commission's policy decisions due to new economic and operational realities. In reality, both CURB and Staff have applied the Commission's 441 and 442 policy goals and directives clearly, and without confusion in five different utility applications for energy-efficiency programs (Kansas Gas Service, Black Hills Energy, Empire Electric, Westar Energy, and Kansas City Power and Light). However, Staff and CURB's similar interpretations of the Commission's orders and ultimate recommendations did not always lead to a happy ending. In most cases, the utilities interpreted the Commission's 441 and 442 policies differently. Rather than risk not getting everything that they wanted in a Commission order, they chose to withdraw their applications before the Commission could ever render a ruling.

While this new general investigation docket is still in its infancy, and many topics are still being discussed, it appears clear that this docket is not about clarifying the Commission's previous goals or policies on energy efficiency. In fact, it's **not** about cost-effective energy-efficiency programs. It's **not** about saving consumers money through reduced energy consumption. It's **not** about saving the environment or delaying the need for a utility to build another expensive power plant. It **is** about national perception – Kansas currently ranks 48th in the American Council for an Energy Efficient Economy's Scorecard of the States with the most effective energy-efficiency policies. It **is** about dangling a big enough carrot–a carrot filled with your dollars – in front of the utilities in order to get them to offer energy-efficiency programs. It **is** about accomplishing these things by any means necessary - including spending millions of dollars of your money, whether it makes economic sense or not.

CURB will actively be involved in this generic investigation and will continue to report its progress in future CURBside editions.

KCC Docket Nos. 12-GIMX-337-GIV, 08-GIMX-441-GIV, and 08-GIMX442-