



# CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES FEB. 2008

## **KEPCO seeks \$5.4 million rate bump**

The Kansas Electric Power Cooperative (KEPCO) filed a request in December to increase rates to its customers by \$5.4 million. Its last increase was granted in 2002.

KEPCO also wants to return to its demand-based purchased-power adjustment that was discontinued in 1990.

KEPCO is a nonprofit cooperative owned by 19 other Kansas electric cooperatives.

KEPCO provides generation and transmission service to its owner-members, who serve 110,000 households in the state.

KEPCO's CEO, Stephen Parr, says that KEPCO is at risk of falling below acceptable debt ratios if the increase is not granted. He cites the increased cost of purchased power and demand charges from its power suppliers as the primary drivers for the requested increase.

CURB has intervened in the case, but the KCC has yet to determine the due dates for the filing of testimony and conducting the hearings.

We'll keep you posted.

*KCC Docket No. KEPE-597-RTS*

## **Midwest Energy seeks \$10 million increase in electric rates**

Citing increased energy costs, construction costs and the need to maintain appropriate debt ratios, Midwest Energy has filed a request with the KCC for an increase in retail rates of approximately \$10 million.

Midwest has also requested to implement a transmission delivery charge (TDC) that would pass through changes in its transmission costs between rate cases.

Midwest Energy is a Hays-based cooperative that serves approximately 47,000 retail electric customers in central and western Kansas. Midwest also operates a natural gas utility.

The application, filed by Midwest on December 21, is intended to replace an earlier rate request filed by Midwest in November. It reflects revisions to the company's request occasioned by the KCC's recent ruling that the five-year rate moratorium for Midwest's W-system customers company did not prevent the company from filing a request for an increase prior to the expiration of the

*(See Midwest increase, at P. 4)*

## **Westar wind plants OK'd by KCC — without the "sugar"**

On December 27, 2008, the KCC approved Westar Energy's plan to acquire nearly 300 MW of wind power. CURB is pleased with the decision, particularly the Commission's denial of Westar's request for an additional 1% premium on its rate of return on equity.

Although Consumer Counsel Dave Springe was disappointed that the KCC approved Westar's decision to build rather than buy wind power, he acknowledged that, on the whole, it was "fair and balanced decision."

Springe was especially pleased that "The commission didn't give them the sugar," referring to the 1% premium on return. "The Commission's denial of Westar's request for an additional 1% return on equity has saved ratepayers nearly \$50 million over the life of these wind farms. Westar will be reasonably compensated for its investment in renewable energy without charging ratepayers an unnecessary premium."

While the KCC declined to

*(See Westar wind, at P. 2)*

## Westar wind

(Continued from P. 1)

implement a mechanism to provide an incentive for Westar to maximize its wind generation, it indicated it would revisit the issue in two years.

However, CURB is pleased the KCC specifically reserved the right and authority to review the prudence of Westar's operation and maintenance (O&M) costs for its wind assets, which will allow the Commission to disallow expenditures for O&M or to reduce the rate of return authorized for such facilities if Westar's O&M practices are found to be imprudent.

Westar's initial estimate was that its customers would experience increases of roughly \$2.25 a month to support the wind power plan, including the 1% premium. Westar has not issued a revised estimate since the premium was denied, but CURB believes that the company's initial estimate was low.

The Commission approved Westar's proposal to own 149 MW of wind generation and to enter into Purchase Power Agreements (PPAs) to purchase 146 MW of wind generation. While CURB urged the KCC to approve only the PPAs, on the grounds they were the least-cost alternative, CURB believes the Commission's decision, taken as a whole, is reasonable.

Following the Commission's December 27, 2008, decision, Westar Energy announced that it had signed final agreements with wind developers to build the three wind farms approved

by the Commission. The three wind farms include:

**Central Plains Wind Farm**, located in Wichita County, will be developed by RES America and to be owned by Westar and will provide 99 MW of wind generation.

**Cloud County Wind Farm**, located in Cloud County, will be developed and owned by Horizon Wind Energy and will provide 96 MW purchased by Westar through a PPA.

**Flat Ridge Wind Farm**, located in Barber County, will be developed by BP Alternative Energy, and will provide 100 MW of wind generation, half of which will be owned by Westar and half by BP Alternative Energy. The energy will be provided to Westar through a PPA.

These plants were originally intended to be only the first phase of a two-part plan. However, Westar has announced that it will not follow through with plans to build a second phase of its wind power plan because the premium on return was denied. The second phase, if completed, would have boosted Westar's wind output to about 500 MW.

*KCC Docket No. 08-WSEE-309-PRE*

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## Income limits eliminated for KEEP loans

The Kansas Housing Resources Corporation has announced that it has eliminated the income restrictions for low-interest loans for homeowners to purchase energy-efficient furnaces and appliances, and to make other energy-saving improvements to their homes.

Originally, the KEEP program was targeted at lower-income households, but the income requirements have been dropped. Now more families will be eligible for the loans.

KEEP will fund up to half of loan amounts—up to \$10,000—and Sunflower Bank will fund the remainder. Loans over \$10,000 may be available upon approval by Sunflower.

Individuals interested in KEEP loans should contact Sunflower Bank at its toll-free number: 1-888-827-5564, or through its website: [www.sunflowerbank.com](http://www.sunflowerbank.com).

Improvements that may be made under the program include:

- **Installing qualified Energy Star furnaces, central air, heat pumps, HVAC systems;**
- **Installing wall and floor insulation, storm doors and windows;**
- **Air sealing, duct work, weather stripping; and**
- **Purchase of qualified Energy Star appliances and programmable thermostats.**

## Westar files for TDC

On November 30, 2007, Westar Energy filed a request with the KCC to implement a transmission delivery charge (TDC). A TDC would allow Westar to pass through changes in its transmission costs incurred through the Southwest Power Pool, which operates the electric grid in this region and bills users according to rates set at FERC. The TDC would change whenever FERC rates change, passing through changes in rates to customers between rate cases.

In its last rate case, Westar received permission to implement a TDC, but the Kansas Court of Appeals ruled that the KCC had improperly allowed Westar to base its initial TDC on an increased interim rate approved by FERC, in violation of the TDC statute and the requirement that rates set in a rate case be final within 240 days of the company's initial filing.

The statute that governed implementation of the TDC at the time has since been amended by the legislature, but as noted in a separate article in this issue, the Court of Appeals is now considering whether the KCC's decision on remand to allow Westar to recoup its transmission costs through a transmission service charge denied customers refunds to which they were due. The company's current request for a TDC will have no effect on the Court of Appeals' decision.

CURB has consistently opposed pass-through provi-

sions such as the TDC, because they pass on increases in one type of costs, without review of whether other types of costs have decreased. While the companies argue that reductions in the costs are also passed through to customers, in an era of rising energy costs, reductions rarely occur. CURB and other consumer advocates argue that since pass-through provisions reduce the risk to shareholders, at the very least, the reduced risk should be reflected in reduced rates of return.

*KCC Docket No. 08-WSEE-511-TAR*

## Court of Appeals rules against consumers

On February 11, the Kansas Court of Appeals ruled against the appeals of CURB, the Kansas Industrial Consumers and Unified School District No. 259 on two major issues in the 2005 Westar Energy rate case. This was the second trip to the Court of Appeals for CURB and the other intervenors, who believe that ratepayers were improperly deprived of refunds as a result of the KCC's actions after the case was remanded back to the KCC last year.

Two issues remained to be decided. One issue was whether the KCC was wrong on remand to allow Westar to implement a transmission service charge as a substitute for the transmission delivery charge that the Court of Appeals had overturned as illegal. CURB and the other

intervenors argued that the KCC on remand deprived ratepayers of refunds to which they were due as a result of the illegal TDC.

The second issue was whether the KCC properly supported its decision to reverse its previous policy on the accounting treatment of the LaCygne sale and leaseback. In the first appeal, the court ruled that the KCC had not supported its decision; on remand, the KCC reissued the same decision with additional arguments to support its decision. This time, the Court of Appeals ruled that the transmission service charge ordered by the KCC on remand was legal, and that it had sufficiently justified its reversal of the LaCygne accounting treatment.

CURB and KIC do not plan to seek review by the Kansas Supreme Court. USD 259 is considering its options.

*Kansas Court of Appeals Case Nos. 07-99414, 07-99415 and 07-99416*

**CURBside  
is brought to you  
by the Staff of  
CURB:**

**CONSUMER COUNSEL  
DAVID SPRINGE**

**ATTORNEYS  
NIKI CHRISTOPHER  
STEVE RARRICK**

**ADMINISTRATIVE STAFF  
BETH RUNNEBAUM  
SHONDA TITSWORTH**

## Westar files SE Kansas line plan

Westar Energy has filed plans with the KCC to build a 92-mile 345 kV transmission line from Rose Hill, southeast of Wichita, to its Sooner Plant in Noble County, Oklahoma. Depending on the final route chosen, the company estimates that Kansas portion of the line will cost roughly \$60 – 70 million. An Oklahoma utility, OG&E, will be building and shouldering the cost of the Oklahoma portion of the line. Total cost for the line to both utilities is estimated to be as much as \$140 million.

Westar states that approximately 31 miles of the 49 miles of the line in Kansas will follow along existing transmission line paths, although the right-of-way will be widened to accommodate the larger transmission line. The line will begin in southwest Butler County and pass through Cowley County into Oklahoma.

Westar plans to contact all landowners along the path or within 1000 feet of the proposed route, and has conducted meetings in the area with interested parties. An environmental site study has been completed, as well.

If the KCC follows the procedure it used in the last transmission siting case, it will consider the reasonableness of the proposed route at an evidentiary hearing after considering input of the public at the company's workshops and at a KCC public hearing.

The line has been approved by the Southwest Power Pool for base plan funding, so one-third of the cost of the line will be allocated to other transmission owners in the SPP; two-thirds will be recovered by the transmission owners that benefit from the line. Westar estimates that the line will benefit customers by enabling Westar to widen its options for importing power from its Spring Creek plant in Oklahoma and from other utilities.

*KCC Docket No. 08-WSEE-609-MIS*

## Midwest increase (Continued from Page 1)

moratorium, so long as the increase does not go into effect prior to that day.

The W system customers are 9,600 customers that Midwest acquired from Westar. Their rates were frozen at the level of Westar's rates and were protected from a rate increase for 5 years as a result of the KCC proceeding approving the acquisition.

If the full increase is granted, Midwest's customers should expect to see increases in monthly bills of roughly \$13.00 a month. The W system customers will see a slightly bigger increase, around \$13.09.

CURB has intervened on behalf of Midwest's residential and small commercial customers. Since this case is just getting started, no procedural schedule has been set. We will keep you informed of further developments in the case.

*KCC Docket No. 08-MDWE-594-RTS*

## Midwest Energy efficiency loans get OK from KCC

We reported in the October edition of CURBside that the KCC had granted our request for reconsideration of its August 16<sup>th</sup> Order granting Midwest Energy's requests for (1) authority to shut off gas or electric service for nonpayment of the How\$mart energy conservation program obligation and (2) for authority to seek recovery of bad debts resulting from the How\$mart program from other ratepayers.

The Commission heard oral argument on these issues on October 22, 2007.

These two tariff dockets filed by Midwest involve a pilot energy conservation program called How\$mart, which is similar to what are known as Pay-As-You-Save ("PAYS") programs.

These programs are designed to assist and motivate ratepayers to buy cost-effective, energy-efficient products such as insulation, high-efficiency heating and air conditioning units, and other energy-conservation measures.

Like a traditional loan, the cost of How\$mart products will be repaid over time.

However, unlike traditional loans, the obligation to repay the How\$mart obligation is tied to the meter, rather than the homeowner or tenant.

CURB is pleased to report that the Commission's decision authorizing recovery of bad debt from other ratepayers has

been removed from consideration, as a result of an agreement between CURB and Midwest. Midwest agreed to remove from its tariff any language addressing recovery of bad debts, leaving that issue to be decided if it arises in future rate cases.

Unfortunately, the KCC did not reverse its decision granting Midwest's request for authority to shut off gas or electric service for nonpayment of the HowSmart obligation.

CURB opposed this aspect of the proposed program because it constitutes a major departure from longstanding KCC policy, which has only allowed gas and electricity shut-offs for nonpayment of traditional utility service, *i.e.*, the provision of gas or electricity.

CURB does not believe the financing of energy-efficiency products is a traditional utility service, so ratepayers should not be denied gas or electric service as long as they have paid for the gas and electricity provided by Midwest.

While CURB continues to support the goal of Midwest's HowSmart energy conservation program, we're concerned how it will affect customers. It is important for ratepayers who agree to participate in the HowSmart program (or who subsequently rent or buy homes that are enrolled in the program) to be aware that nonpayment of the HowSmart obligation can result in gas or electric service being shut off.

**KCC Docket Nos. 07-MDWG-784-TAR and 07-MDWE-788-TAR**

## **KCPL's new ECA and increases will appear on bills soon**

KCPL customers, your bills are going to be looking a little different soon—and a little higher—reflecting changes that were approved by the KCC in the company's recent rate case.

The KCC approved KCPL's request to begin charging for fuel costs in a separate line-item on customer bills. This charge, called an Energy Cost Adjustment (ECA), will reflect the company's costs of producing and purchasing power, as well as its revenues from off-system sales. Customers will be credited with 100% of off-system revenues, which will help offset the energy costs charged to customers.

The ECA will adjust quarterly. Consistent with a request from CURB, customers will be notified in advance of the upcoming adjustment. This is an improvement over most utilities' ECAs, where the cost of energy for the billing period is only discovered when the bill arrives—after it is too late to make efforts to conserve energy if rates are higher than usual.

Advance notice allows customers to anticipate changes in energy costs and to alter their energy use accordingly. Furthermore, the ability to budget for energy costs is important to many customers, especially small businesses.

While advance notice won't prevent increases from being burdensome, at least they won't

be a surprise to those who take notice of the quarterly changes.

Unfortunately, along with the new ECA, customers also will soon begin seeing the increase in rates that the KCC approved for KCPL. Residential customers should expect to see increases of about 7% per month; small businesses should expect to see about a 1% increase. The difference reflects an adjustment of KCPL's rate design to create a better match between the costs of serving each class and the revenues each class contributes in rates.

KCPL is in the middle of a phase of big construction, and is expected to come in for another rate increase request this coming March. KCPL customers should brace themselves for increases on a regular basis over the next few years as the construction costs are added to rates.

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## **Letter may stall KCPL/Aquila deal**

An anonymous letter sent to the commissions of Missouri's Public Service Commission may stall the proceedings considering the pending sale of Aquila's electric utility in Missouri to KCPL.

The PSC Staff said it will investigate the letter writer's claims that KCPL has concealed huge overruns on its Iatan II construction project before considering approval of the deal. There's no word yet from the KCC on whether it will also investigate the claims. ♦

## **CURB files testimony on Aquila sale**

CURB has filed testimony in the case at the KCC asking for approval of the sale of Aquila's Kansas gas utility to Black Hills and the sale of its Missouri electric utility to Kansas City-based KCPL. Andrea Crane, CURB's accounting consultant, expressed numerous reservations about the terms of the sale and their impact on customers. Without significant amendments to the terms, she recommends that the KCC decline to approve the transactions.

Crane rejected the calculation of costs savings that both companies claim will result from merging their companies with Aquila's utilities, stating that the figures were too speculative. She also objected to both companies' proposals that ratepayers foot the bill for acquisition premiums. In both sales, she said, the companies are paying far more than book value for Aquila's assets, but have not established that the transaction will reap benefits that justify asking the customers to pay a premium.

Regarding the KCPL/Aquila transaction, Crane also noted that KCPL will be filing a revised transaction plan in Missouri, and recommended that the KCC decline to take any action in the case until everyone has had an opportunity to review and comment on the revisions.

Crane expressed no reservations about the competence of KCPL or Black Hills, saying

both are capable of operating Aquila's utilities, but was concerned that the transactions as proposed would saddle customers with huge costs relating to the transactions, without receiving any benefits.

The KCC intends to proceed with this docket as planned, but has granted KCC Staff the right to file a request to reopen issues decided in this case if the Missouri proceedings result in negative impacts to Kansas customers, and has decided to suspend the docket only if the proceedings are suspended in Missouri.

*KCC Docket Nos. 07-BHCG-1063  
and 07-KCPE-1064-ACQ*

## **Springe chosen as head of NASUCA**

While the rest of the nation's attention has turned to the election for president of the United States, the nation's consumer counsels have already elected their president for 2008: CURB's own Dave Springe.

Springe, who has served as vice-president of the National Association of State Utility Consumer Advocates for the last two years, was elected president of the organization in November at its annual meeting in Anaheim, California. He also serves on NASUCA's electricity, natural gas and economics committees.

NASUCA's membership consists of the consumer counsels from 44 states and the District of Columbia. The presidency is an unpaid position, but is quite an honor, and confers

on Springe automatic membership to other prestigious organizations, such as the Keystone Institute.

Please join us in offering our congratulations to Dave. We wish him a successful reign at NASUCA.

## **New group to promote wind power**

Kansas Governor Kathleen Sebelius and Lieutenant Governor Mark Parkinson announced on January 7 that they have created a group to promote more wind power for Kansas.

The Kansas Wind Working Group is a 34-member group headed by Parkinson whose purpose, according to Sebelius, is to "attract new wind energy projects to the state and promote better use of this abundant natural resource."

Parkinson said, "By opening the dialogue between advocacy groups, utility companies and communities across our state we can form a shared vision on how best to move forward with new wind projects in Kansas."

The majority of the members of the group are representatives of wind power developers, utilities, or representatives of various economic development and commerce organizations.

Funds for the group will come from Wind Powering America, and it will receive support from the KCC Energy office and the lieutenant governor's office.

Members of the working group are as follows:

Mark Parkinson	Lt. Governor (Chair)	Gary Hogsett	Burns & McDonnell
Reed Armstrong	PPM Energy	Carl Huslig	ITC Great Plains
Brad Beecher	Empire District Electric	Mike Irvin	Ks. Farm Bureau
Jay Caspary	Southwest Power Pool	Nancy Jackson	Climate & Energy Project
Stephanie Cole	Sierra Club	Sharla Krenzel	Wichita Co. Eco-Dev. Inc.
John Cyr	N. Cent. Reg'l Planning	Len Kriesky	Black & Veatch
Bryan Derreberry	Wichita Ch. of Commerce	Mark Lawlor	Horizon Wind Energy
Randall Doll	Doll Real Estate Services	Jim Ludwig	Westar Energy
Blake Elliott	Ks. Board of Public Utilities	Ruth D. Miller	KSU Engineering
Steven Errebo	Ks. Ass'n of Counties	Corey Mohn	Ks. Dept. of Commerce
Les Evans	KEPCO	Don Moler	Ks. Lg. of Municipalities
Rob Freeman	Tradewind Energy	Dan Nagengast	Ks. Rural Center
John Grimwade	KCPL	Susan Sloan	Am. Wind Energy Ass'n
Bob Johnson	Sunflower Elec. Corp.	Donn Teske	Ks. Farmers Union
Colin Hansen Ks.	Municipal Utilities	Bruce Waugh	Attorney / Rancher
Ray Harold	Midwest Energy	Steve Weatherford	Ks. Dev. Fin. Auth. (ex off.)
Nicholas Hiza	BP Alternative Energy	Scott White	JW Prairie Windpower LLC

## Ready for the Digital Television revolution?

On February 17, 2009, all American television channels will be digital. Here's what you need to know to be prepared for DTV by next year.

First of all, if you subscribe to digital TV services offered by cable or telephone companies, you don't need to do anything because the companies already have the technology in place to broadcast the new digital format. However, if you are not a cable subscriber and do not wish to pay hundreds of dollars for a new digital television, the following information may help take the mystery out of the "Digital Television Revolution."

**What is Digital Television (DTV) and why are we switching?** On February 17, 2009, the U.S. government is requiring all American tele-

vision stations to stop offering "free" analog channels and switch to digital format. According to the industry, digital television is a more efficient way to broadcast, provides a clearer picture and sound quality, as well as offering consumers many more channels.

In addition, in this post-9/11 era, the switch to an all-digital format will free up air-waves to make them available more readily to first responders, such as police and fire departments, thereby enhancing their reaction to emergencies and significantly improving public safety for all Americans.

**What do I need to do to prepare for the DTV transition?** First, you need to take an inventory of all the functioning television sets in your home to see which ones are connected to cable and those that use an antenna. The televisions that are currently using antennas are probably "analog" and will be unable to receive

television signals once digital broadcasting begins on February 17, 2009.

**After February 17, 2009, will I be able to use my analog television set?** There are three options for consumers who will still use analog television sets:

**Purchase a DTV converter box:** Television viewers, who wish to still get "free" TV, must have a digital converter box. Beginning in early 2008, consumers will be able to purchase DTV converter boxes at an estimated (one time) cost of \$50 to \$70 from your local electronic retailer.

**Purchase a Digital TV set:** Although some may think of "plasma" or "LCD" television when they think about digital, those are simply types of high-definition televisions. For this conversion you will need a TV set with a built-in digital tuner. Most TV sets purchased since 2004 should have the built-in

(See Digital TV, Page 8)

## Digital TV

(Continued from P. 7)

digital tuner.

To learn more about digital TVs, and how to find the one that will best fit your needs, visit

<http://www.myceknowhow.com/digitalTelevision.cfm>

**Subscribe to a digital Television provider:** You can continue to use your analog television without a DTV converter box by subscribing to a cable, satellite, or telephone company video service.

**What will happen if I don't get the converter box, purchase a new TV or get cable?** You will no longer be able to watch TV once the digital television transition takes place, you will no longer be able to view broadcast television signals, unless you are using a converter box, or subscribe to cable or satellite.

**What if I can't afford to buy a converter box?** In an effort to offset the cost, the federal government will provide up to two \$40 coupons per household towards the purchase price. For more information on the Digital-to-Analog Converter Box Coupon Program, visit the NTIA's website at [www.ntia.doc.gov/dtvcoupon](http://www.ntia.doc.gov/dtvcoupon), or call 1-888-388-2009 (voice) or 1-877-530-2634 (TTY). For additional information regarding the transition to digital TV, visit <http://www.DigitalTips.org> and [www.DTVtransition.org](http://www.DTVtransition.org).

*Courtesy of the Office of Consumer Counsel, District of Columbia*

## KCC: VoIP Providers should give to KUSF

On January 9, 2008, the KCC issued an Order containing an interim finding that it has authority to compel interconnected Voice over Internet Protocol (VoIP) providers to contribute to the Kansas Universal Service Fund (KUSF). The Commission concluded that nothing in federal law expressly pre-empts the State from compelling VoIP providers to contribute to the KUSF, and that federal authority for the State may be implied from various sources.

In discussing whether Kansas law authorizes the KCC to compel VoIP providers to contribute to the KUSF, the Commission noted that a bill pending before the Kansas legislature would unambiguously decide the issue by mandating contribution by VoIP providers.

However, the Commission concluded that existing Kansas law compelled it to require interconnected VoIP providers to contribute to the KUSF.

The Commission ordered an implementation workshop to be conducted within 30 days of its Order to allow parties to discuss and review issues including: appropriate safe harbor provision language, notification issues, identifying interconnected VoIP providers, timing, coordination with the outside fund administrator, review of the safe harbor percentage, etc.

**KCC Docket No. 07-GIMT-432-GIT**

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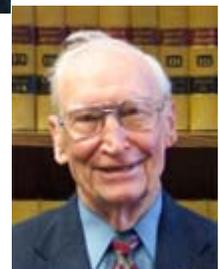


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