



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES JULY 2007

Shakeup at the KCC: Moline, Krehbiel out; Wright, Harkins in

Governor Kathleen Sebelius has replaced two of the three members of the Kansas Corporation Commission.

In May, Sebelius appointed Thomas E. Wright, a Topeka attorney with ties to Westar Energy, to replace Brian Moline as chair of the Kansas Corporation Commission. The governor declined to reappoint him to another term.

Wright, as a principle in the law firm of Wright, Henson, Clark, Hutton, Mudrick & Gragson, LLP, was a law partner of Gary Sebelius, the governor's husband, prior to Judge Sebelius' appointment to the federal bench, and has represented Westar in numerous lawsuits between Westar and its employees. Although Wright has extensive experience as an employer's attorney and is an active member of the Kansas and federal bars, he has no experience in utility regulation.

Wright was sworn in on May 23 and elected Chairman by his fellow commissioners the next day.

Sebelius has also announced that she has appointed Joe

Harkins, current Director of the KCC Energy Office, to replace Bob Krehbiel, whose term on the commission expired in March. The governor announced last month that she has selected Krehbiel to serve as the governor's Chief Gaming Officer, in charge of implementing the expansion of gambling in Kansas under the Expanded Lottery Act, which was passed by the legislature earlier this year.

Harkins has 40 years of service in Kansas government. He has twice served as director of the Kansas Water Office, and has directed the Department of Health and Environment, and worked in higher education, as well. Harkins was serving as the governor's Natural Resources Policy Director when Sebelius appointed him to direct the KCC Energy Office in October 2005.

Statements from the governor's office have made it clear that the new appointees are being sent to the KCC to pursue an agenda of alternative energy and conservation, particularly

the promotion of wind power.

Sebelius said of Wright, "Tom is committed to the goal of making Kansas a leader in energy security and independence, taking advantage of our vast opportunities with alternative energy sources and encouraging widespread conservation efforts throughout the state."

Of Harkins, the governor's press release stressed his role as a promotor of energy efficiency and conservation, and said that he "has a vision for where this state can go in terms of renewable energy."

We hope that the Commission's role in protecting consumers by keeping rates reasonable doesn't become secondary to this agenda. ♦

IT'S YOUR TURN!

Tell the KCC what you think about KCPL's request for a \$47.1 million rate increase!

See page 2 for information.

Rate treatment of new Westar's Emporia plant approved

On June 11, 2007, the KCC approved a stipulation and agreement that prescribes the ratemaking treatment that will determine how Westar Energy will recover from ratepayers the costs of its proposed Emporia Energy Center plant.

This was the first “pre-approval” order issued since the legislature passed K.S.A. 66-1239 in the 2006 session. The statute sets forth a process by which a utility may receive confirmation that the KCC will approve a proposed expenditure for a new plant. Additionally, the statute also requires the utility to meet certain requirements before approval can be granted.

CURB declined to endorse the contention that the plant was primarily needed to support wind power that Westar said it might build in the near future. Without firm plans to build wind power facilities in place, CURB did not feel that the KCC could approve building the plant for that reason. However, CURB signed on to the agreement because the evidence supported building the new Emporia plant to help meet growing peak demand on the Westar system.

In return for CURB’s acquiescence to the agreement, Westar agreed to improve its planning and peak forecasting processes, to continue to assist utility assistance and weatherization agencies with their data needs, and to pursue alternative

means to meet and reduce peak loads.

Westar projects that the plant will cost consumers \$318 million. The KCC approved the expenditure as reasonable to include in a future rate case. Any cost overruns that may occur will be addressed in a future proceeding.

KCC Docket No. 07-WSEE-616-PRE

Public Hearing on KCPL Increase Slated for August 23

KCPL customers, it's your turn to tell the KCC what you think about the \$47.1 million rate increase requested by the company.

The Kansas Corporation Commission has scheduled a public hearing in Overland Park on August 23, 2007, at 7 p.m.

Public hearings are held in two parts. The first part consists of a question-and-answer session, during which customers may ask questions of representatives of the KCC Staff, KCPL and CURB. The commissioners do not attend this part of the hearing. In the second part of the hearing, the three Commissioners will hear formal statements from customers who wish to address the Commission.

Additionally, customers may call or send written comments to the KCC through September 9, 2007. See the box next to this article for the location of the public hearing and contact information for the KCC if you wish to comment.

IT'S YOUR TURN!

Tell the KCC what you think about KCPL's request for a \$47.1 million rate increase!

PUBLIC HEARING

on KCPL's rate increase request

August 23, 2007
7:00 p.m.

Overland Park City Council Chamber

8500 Santa Fe Dr.
Overland Park, KS

For those of you who cannot attend the hearing, comments are being accepted by the KCC through September 9, 2007.

Comments should refer to:
**KCC Docket No.
07-KCPE-905-RTS.**

Comments by email:
Hpublic.affairs@kcc.ks.gov

Comments by U.S. mail:
Kansas Corporation Commission
Office of Public Affairs and Consumer Protection
1500 SW Arrowhead Road
Topeka, Kansas 66604

Comments by toll-free call:
1-800-662-0027
(271-3140 in Topeka)

Complaints about electric utilities up 28% since 2002

The KCC's Consumer Protection Office reports that consumer complaints about electric utilities have risen 28% since 2002.

In its first quarter report for fiscal year 2007, the CPO noted that complaints about electric utilities concerning billing issues, rates and charges, disconnections, refusal of service, deposits, meters, quality of service and other issues tracked by the CPO had increased notably over the last five years.

Although overall, complaints about gas companies have decreased, complaints about gas company disconnections, refusal of service, meters and quality of service have also increased over the last five years.

The report recorded a slight decrease in complaints about utilities overall, mostly attributable to a significant decrease in complaints about telephone companies. CURB assumes the decrease in complaints about telephone companies is a direct result of so many customers moving from land line service to cell phones, which aren't regulated by the KCC.

The CPO defines a complaint as: (1) contacts from consumers who first contacted the company with a complaint, (2) contacts which require staff to work with the utility, or (3) incidents which need to be reported in the data base. Contacts from consumers that are mere inquiries or requests

for referrals are not recorded as complaints. The report doesn't specify whether calls from customers of utilities that aren't regulated by the KCC are recorded as complaints.

The significant increase in complaints concerning electric utilities is a disturbing trend.

We urge the KCC to take action to investigate and address the reasons for the increase.

KCC solicits comments on fuels and efficiency

On July 11, 2007, the KCC issued an order soliciting comments from CURB, the electric utilities and interested persons regarding setting standards for fuel source diversity and fossil fuel generation efficiency.

The comments are sought to assist the Commission in complying with Section 1251 of the federal Energy Policy Act of 2005, which requires state utility commissions to require each jurisdictional electric utility to develop a plan to minimize dependence on a single fuel source and to ensure diversity of fuel and technologies, including renewables. Additionally, commissions must require each electric utility to develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation. The Commission must set standards for these requirements by August 8, 2008.

Comments are due on or before September 15, 2007.

KCC Docket No. 07-GIME-578-GIE

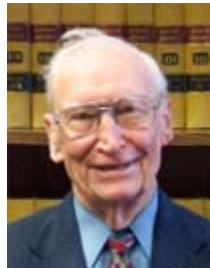
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LEAWOOD

Governor negotiates wind power energy deal with utilities

On June 5, 2007, Governor Sebelius announced that she and Lieutenant Governor Mark Parkinson had secured a commitment from six of the state's largest energy producers to meet the governor's goal of Kansas receiving ten percent of its power from wind by 2010 and twenty percent by 2020.

Although the announcement stated that the Governor and Lt. Governor had made an "extensive effort in engaging the discussion and building a consensus among energy producers and consumers," their agreement with the utilities was negotiated behind closed doors and did not include CURB or, to our knowledge, any of the other representatives of utility customers in the state. While CURB isn't opposed to wind power or renewables as a part of a balanced generation portfolio, the evidence suggests that they are more costly to ratepayers in the near term, and perhaps the long term.

However, the cost of the new utility commitment and its impact on consumer rates is notably absent from the public discussions.

To meet the governor's goal of ten percent windpower by 2010, almost 600 megawatts of wind must be placed on the electric grid in the next two or three years, which is going to entail a substantial expenditure. For example, KCPL's recent addition of 100 megawatts from

its new wind farm near Spearville, Kansas cost about \$165 million to build—and that doesn't include transmission costs and annual operation and maintenance costs. To meet the governor's voluntary commitment to wind power will require something close to \$1 billion of investment in the next few years.

With two new Sebelius appointees on the Commission, it is unlikely that the Governor's plans for massive infusions of wind power into the generation mix will meet with much opposition.

As CURB Consumer Counsel David Springe recently stated, "If all the utility CEOs plan to achieve the governor's challenge, one has to ask what they get in return. I'm not optimistic about what the answer will be."

In the meantime, CURB will continue to ask the important questions: "Who will pay?" and "How much?"

More importantly, CURB will make every effort to ensure that policy making and rate discussion takes place in the public's view.

Security Deposit Billing Standards Under Review

The Commission opened a general investigation into billing standards related to security deposits for residential and nonresidential customers of gas, electric, and water public utilities in November 2005. The parties filed initial comments in February and reply comments in March on the issue of whether those security deposit billing standards should be changed.

Under existing billing standards, utilities are only allowed to charge a security deposit for residential and small commercial customers in an amount not to exceed the amount of that customer's *projected average two (2) months' bills*.

Nearly all companies filing comments propose to increase the security deposit limit to permit them to charge a deposit not to exceed the customer's *largest two months' bills*.

Additionally, two other companies have proposed increasing the security deposit to a *three-month average bill* deposit for residential and small commercial customers.

CURB opposes both of these proposals and has urged the Commission to retain the current standard.

Also at issue is whether utilities should be able to use credit scores to determine whether new or existing customers should be required to pay a security deposit. CURB

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firmly opposes the use of credit scores because they have been found to be inaccurate, inconsistent, out-of-date, and unreliable in evaluating satisfactory credit worthiness of consumers. However, nearly all of the utilities support the use of credit scores, even though some do not currently utilize credit scores in evaluating whether security deposits are required.

CURB urged the Commission to investigate whether the use of credit scores is arbitrary and discriminatory before it allows the utilities to use credit scores to determine whether customers should pay a security deposit.

The parties also addressed whether the current standards for retention of security deposits of nonresidential customers should be changed.

Currently, the billing standards require the utilities to return the security deposit of for small commercial customers with deposits under \$5,000 after the customer has made a total of 36 timely payments. Three companies, Atmos, Aquila, and Empire, propose changing this standard to require them to return the security deposit of the small commercial customer when the customer has made at least 20 on-time payments within a 24-month period. CURB sees no justification for this change, and therefore urged the Commission to retain the existing standard.

Additionally, Kansas Gas Service and Westar, proposed changing the current standard to allow the utility to retain the deposit until service is

terminated. CURB firmly opposes this proposal, and asked the Commission to order KGS and Westar to provide any data that purportedly supports the need for this proposed change.

Finally, Atmos and Aquila went beyond the issues the Commission asked to be addressed and suggested that the Commission eliminate or limit the ability of customers to pay their security deposit in installments. CURB opposes this proposed change to the billing standards, which would effectively prevent large numbers of customers from obtaining utility service altogether.

KCC Docket No. 07-GIMX-446-GIV

KCC approves Westar's new transmission route in Central Kansas

On May 16, the KCC approved the route of Westar Energy's proposed 345KV transmission line in central Kansas.

The line will run from a substation near Wichita to a new substation to be built near Hutchison, and from there it will turn north and terminate at Summit Substation near Salina.

In approving the route, the KCC approved several proposed changes to the route that landowners in the area had requested. All of the alternatives carried price tags, but the Commission found that

accommodating the landowners' requests was reasonable.

One of the landowner alternatives was rejected by the Commission because it would negatively affect more landowners than the route originally proposed by Westar, and would only benefit the landowner who requested it.

The changes to the route approved by the Commission added almost \$9 million to the project's projected cost of \$80 to \$100 million.

This project is the first phase of a major transmission upgrade by Westar. The company is currently in the process of identifying and contacting landowners in the area of the proposed second phase of the upgrade, which would run from Wichita south to Oklahoma.

Westar plans to hold open houses for landowners who may be affected by the new line, as well as survey the proposed routes for sensitive environmental concerns, just as it did for the first phase of the upgrade project. After meeting with area residents and reviewing the survey of the area's sensitive features, Westar will file a new siting application with the KCC for Phase 2.

KCC Docket No. 07-WSEE-715-MIS

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Kansas Lifeline Support Methodology Revisited

On June 1, 2007, the Commission opened a docket to review whether the support payments provided under the Kansas Lifeline Service Program for telephone customers should continue to be based upon the current "hold harmless" basis. The "hold harmless" approach to Lifeline support was designed to hold Lifeline customers harmless from rate increases caused by periodic increases in basic local rates.

CURB continues to support the hold harmless approach to Lifeline payments for the same reasons it has historically supported the hold harmless approach—the hold harmless approach is more equitable and is consistent with the primary intent of the Lifeline program, which is to preserve reasonable and affordable rates for persons in poverty or with low income, including many of our elderly, disabled, disadvantaged and working poor.

The fundamental difference between the "hold harmless" approach and the "equal payments" approach is that under the hold harmless approach, Lifeline customers will not incur any increase in net payments to their carrier, but under the equal payments approach, some Lifeline customers will incur increases in net payments to their carrier. Some of these increases could be significant.

CURB believes the equal payments approach would force rate increases upon those Kansans that can least afford it. Further, some of these rate increases could be more significant than the Commission has historically allowed. Because of this, CURB believes the equal payments approach should be rejected by the Commission.

CURB also believes that determining the amount of the net payment that Lifeline customers will pay under the equal payments approach will be difficult and controversial. This will require substantial time and costs to parties, including hearings to debate and address the proper net payment amount under the equal payments approach.

By contrast, maintaining the hold harmless approach will not require substantial time and costs to parties, and is more equitable and consistent with the intent of the Lifeline program.

KCC Docket No. 07-GIMT-1353-GIT

Sprint thinks they dost protest too much

Sprint has notified about 1000 of its wireless customers on June 29 that it will no longer serve them, because they utilized Sprint's customer service too often.

Although the terminated customers are a small portion of its 54 million subscribers, the move to get rid of customers

who Sprint claimed were calling as much as "40 to 50 calls a month" was viewed by one industry observer as part of Sprint's efforts to "improve the quality of its customer base."

One of the terminated customers claimed July 11 on a public radio show that the reason she had called Sprint so many times was that the company had never resolved her original complaint, and also stated that she was often forced to call three or four different numbers each time she contacted the company in an effort to resolve the problem. She said she had been in contact with numerous other Sprint customers with similar problems.

Sprint isn't apologizing for the move, although other wireless providers haven't followed suit. Representatives of AT&T Wireless and Verizon Wireless told the Associated Press that while they had terminated customers who were abusive to customer service representatives, or who had violated terms of the service agreement, they had never terminated service with a large group of customers for simply utilizing customer service too often.

Sprint told the ousted customers that they wouldn't owe a final bill and the company was waiving early termination fees. The customers were given 30 days to switch to another wireless provider if they wanted to keep their current phone number.

Wireless providers aren't regulated by the KCC, and current KCC rules and reg-

ulations wouldn't permit the regulated telephone companies to boot customers who contact them too often. It's protections from actions like this that customers lose when providers aren't regulated.

(From AP and NPR reports)

Westar refund case closer to resolution

The never-ending saga of CURB's efforts to obtain refunds for Westar Energy customers has yet to end, but we are one step closer . . . maybe.

As our regular readers are aware, a year ago the Court of Appeals overturned three decisions of the KCC in the Westar rate case that had resulted in customers being charged rates that were much higher than they should have been. We anticipated that the ratepayers would receive refunds after the case was remanded back to the KCC.

Instead, the KCC made preliminary rulings in February that were again supportive of Westar's positions on the issues. Wichita Unified School District No. 259 filed an appeal, and CURB attempted to intervene and support the district's appeal, but the Court of Appeals ruled that the appeal was premature.

The KCC held an evidentiary hearing in May to hear the parties' views on the various issues remaining to be addressed. As has been typical in the last few years, the KCC Staff settled with the company

on the remaining issues shortly before the hearing, which left only CURB, the Kansas Industrial Consumers and the Wichita school district to defend the ratepayers.

At this writing, we are still awaiting the KCC's final rulings in this case. Since we already know the KCC's position on issues determined in February, CURB and the other intervenors are already anticipating filing appeals in the case. However, we still cling to a small hope that at least some of the issues will be resolved in favor of the ratepayers. We'll keep you posted.

KCC Docket No. 07-WSEE-981-RTS

ITC Great Plains receives certificate as Kansas utility

ITC Great Plains has been issued a certificate of convenience to operate as Kansas' first electric transmission utility.

Under an agreement reached with the other electric utilities in the state, the KCC and CURB, ITC Great Plains will be allowed to build and operate electric transmission lines in Kansas.

ITC will be allowed to build transmission projects that (1) have been approved by the Southwest Power Pool (the regional transmission operator), and that (2) the incumbent electric utilities, which have a right of first refusal, have chosen not to build.

Traditionally, an electric utility owns the generation

plant, the transmission lines to move the power, and the distribution lines to get the power to your house. Transmission lines are used to move power over longer distances, and to interconnect different utilities and different geographical areas.

ITC hopes to create more and better links between the utilities and between the states that surround Kansas. It's hoped these new links will make it easier to move power across the region, thereby easing the way for utilities to sell excess power when it's available, and for utilities to buy power when it is cheaper than generating it at their own plants.

KCC Docket No. 07-ITCE-380-COC

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Aquila Rate Case Settled: \$5.1 Million

On May 16, 2007, the KCC Kansas Corporation Commission approved an agreement between Aquila, Inc., Commission Staff, CURB, USD No. 259, and Cornerstone Energy, Inc. that reduced the rate increase requested by Aquila from \$7.24 million to \$5.1 million.

The \$5.1 million increase agreed to by the parties does not involve the cost of gas, which is the wholesale price Aquila pays to natural gas producers and pipeline companies for the commodity, plus storage and transmission costs, without any markup.

Delivery charges typically account for 30% of a customer's bill, with the actual cost of gas accounting for 70% of the bill.

While CURB would have preferred a lower increase, the \$5.1 million settlement amount was closer to the more modest rate increase CURB's consultants recommended (\$3.45 million) than the \$7.24 million originally requested by Aquila.

The settlement also approved a traditional rate design, rather than the alternative rate design originally proposed by Aquila, which would have allowed the company to recover most of its variable delivery charges through a fixed demand charge based on the customer's highest monthly usage in the past three years.

Additionally, as part of the settlement, Aquila withdrew its proposal to introduce an energy efficiency program that would have provided weatherization for low income households and rebates to encourage customers to

replace furnaces and water heating equipment with more energy efficient models.

KCC Docket No. 07-AQLG-431-RTS

KCPL Offers Air Conditioner Checks

The Commission recently approved a new energy efficiency program for KCPL called the "Cool Homes Program."

Under the program, KCPL and the program administrator will evaluate customer records to create a target group of customers likely to be using inefficient central air conditioning equipment. The target group will be offered promotional opportunities, including free performance testing of their AC units, free reconditioning if the unit can be brought up to minimum efficiency ratings, and installation incentives to replace the unit with a new high-efficiency air conditioning unit.

KCPL anticipates it will spend approximately \$9.6 million on the Cool Homes program. KCPL estimates that it will save 2 million kilowatt hours in the first year and up to 5.3 million kilowatt hours over the first five years. However, KCPL estimates the real saving to the company and its customers will be from reductions in peak demand requirements. In other words, they are spending the money on this program hoping that it will help stave off the need for building new peak capacity in the future.

KCPL hopes to service 14,000 customers during the five year program.

KCC Docket No. 07-KCPE-909-TAR

KGS took her gas pipes—and got away with it

Don't leave your house disconnected from your natural gas utility for very long, or the gas company can take away your gas pipes. That's the lesson one Kansas City, Kansas resident recently learned—the hard way.

In November 2006, the woman was making preparations to move into a house that she had inherited from her mother in 2000. Her brother had lived there until 2004, and since then, it had remained vacant.

She had the water turned on, and was making preparations to call Kansas Gas Service to turn on the gas. But then the woman arrived at the house on November 8 to find excavators digging in the street in front of her house.

When asked what they were doing, the workers replied that they were told to remove the gas pipes that connect the main to the homes on the street there. Although she strenuously objected and said that she had never been notified that the gas pipes would be removed, the workers refused to stop working, and told her she would have to contact Kansas Gas Service.

As it turned out, the city was tearing down two of the houses

in front of the woman's house, and the contractor had asked KGS to remove the gas pipes from the properties. The woman's house was located on a lot behind one of the condemned houses.

It is apparent from the company's initial responses to the KCC's investigator that KGS had assumed that the woman's home at the rear of the lot was part of the property to be condemned when it decided to remove the pipes connecting her home. At one time, the two houses had been one piece of property, but the woman's house and lot are now owned separately, have a separate street address, and had a separate gas meter—until KGS removed it, along with the gas pipes serving the home.

Afraid the water pipes would freeze if the house remained without heat for long, the woman contacted the KCC Consumer Protection Office for help. After an inquiry by an investigator, KGS responded that the wrecking company had requested the line be removed to the house in front, and since the woman's house in the rear was served from the same line, they decided to remove her pipe, too. The company added that the rear house had not had gas service since 2004, when the woman's brother moved out owing money to KGS.

The company further claimed that there was no easement that would permit them to allow a pipe serving her home to remain on the front property. The company also expressed doubt that her house was inhab-

itable—although there's no evidence that any qualified inspector had inspected the house.

The customer offered proof that she had an easement for the pipe, and that her property had not been included as part of the demolition project of the city, but the KCC Staff concluded that KGS had a right under its terms and conditions of service to remove her pipes—whether or not they had been removed in error.

Under the rules, because the gas service had been discontinued after the woman's brother had left owing a bill to KGS when he moved out in September 2004, the company was allowed to remove the pipes and the meter serving the house. Additionally, the KCC Staff found that notice before removing the pipes and meter would have been owed to the customer—but not the owner of the property. Since there hadn't been a KGS customer on the property since 2004, the KCC ruled that KGS had a right to remove the gas pipes without notice to anyone.

Furthermore, the KCC ruled that the woman, if she wished to have the pipes and meter reinstalled, would have to satisfy the conditions under the rules, which including allowing the company to inspect and approve the house's piping, appliances and appurtenances. Additionally, she would have to foot the bill for any additional installation costs, and pay any deposit required to open a new account. Her request that KGS be required to re-install her gas

line and meter at the company's expense was denied.

It seems to us a heartless decision on behalf of KGS and the KCC: it is obvious from the filings that KGS removed the pipes in the mistaken belief that the house on the rear lot was part of the condemned property—and then looked for rules to justify its action when it was proven to be mistaken. But rules are rules, we suppose, and must be obeyed. We don't know if the poor lady ever managed to get her gas service hooked back up or not.

There's a valuable lesson here, however. Those of you who own vacant properties or properties that are currently disconnected from utility service, beware: your gas company (or the electric company, for that matter) may operate under terms and conditions of service that allow the utility to remove the meter and the pipes or lines that serve your property if you are not currently receiving service from the company. Even if they remove them by mistake—the rules will back them up if you are not a current customer.

So allowing your utilities to be disconnected for long periods of time can have expensive consequences. Paying that monthly service charge, even if you are not using the gas or electricity, might be more prudent than risking incurring the cost of replacing your connection to the utility if the utility decides they should be removed.

Black Hills Wants Acquisition Premium Kept Secret

On July 2, 2007, Black Hills filed supplemental testimony and exhibits of Mark T. Thies, in which the acquisition premium, estimated savings of the transaction and the estimated transaction costs are marked “confidential.”

CURB has engaged in informal discussions with representatives of Black Hills, explaining that the KCC has never allowed a company to conceal this information from the public before. CURB will be filing a

motion to compel release of this information if Black Hills does not agree to release the information immediately. No out-of-state company should be allowed to keep the costs of the transaction a secret from the people who are going to be paying for it.

The acquisition premium is the amount over book value that Black Hills will be paying for Aquila’s assets. The savings of the transaction is the amount of operating expenses that Black Hills claims that it can reap from combining its operations with Aquila’s. The transaction costs are just that—the costs to complete the purchase.

Typically, the KCC has al-

lowed the utilities to recover only the amount of savings that are proved up. CURB has consistently opposed this policy. First of all, since Aquila’s customers are already paying for Aquila’s assets in rates, it is unfair to ask them to pay even more for the privilege of being purchased by another utility. Further, over the years, CURB’s consultants have found that the utilities’ “proof” of savings are more “guesstimation” than documentation, and subject to manipulation by the utility to its benefit.

Lastly, nothing we pay for should ever be kept secret.

KCC Docket No. 07-BHCG-1063-ACQ

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