



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES – SEPT. 2003

Settlement in KGS Rate Case Awaits KCC Ruling

The Kansas Gas Service Company (KGS) agreed to slash its request for a rate increase by \$33 million in a last-minute settlement with numerous parties who intervened to oppose its request that the KCC increase its rates by \$78 million per year.

CURB joined the KCC Staff, the Kansas Energy Consumer Group, U.S.D. School District No. 259 (Wichita), the Department of Defense and Seminole Energy in agreeing that granting KGS a \$45 million annual revenue increase was not unreasonable, given the large investments it had made in upgrading its system around the state since its last rate case, and its willingness to reduce its request by \$33 million.

One of the biggest-ticket items justifying the increase was KGS's upgrade of numer-

CURB Welcomes New Member, Carol Faucher

Governor Kathleen Sebelius has appointed a Leawood attorney to represent the Third Congressional District on the Citizens' Utility Ratepayer Board (CURB).

Carol Faucher, who has seventeen years of corporate counsel experience, replaces outgoing board member Frank Weimer.

Gov. Sebelius also reappointed Dr. A.W. "Bill" Dirks, Wichita, as the Fourth Congressional District representative on the board.

Dirks and Faucher were appointed for four-year terms, which will expire on June 30, 2007.

The Staff of CURB welcomes our newest board member, and bids a fond farewell to Frank Weimer, who served CURB well during two terms as the Third District appointee.

Faucher will attend her first meeting as a board member on September 10.

Atmos Energy Files for \$7.5M Rate Increase

Atmos Energy, known to many throughout Kansas as Greeley Gas and United Cities Gas Companies, has filed a request with the KCC for an annual revenue increase of \$7.4 million.

Citing increased costs and plant investments since its last rate cases, the company also wants to equalize rates throughout its territory.

Currently, because of rates that were in place prior to the mergers of Greeley and United Cities with Atmos, there are several different tariff structures for customers of Atmos. If the company's request is granted, several different tariffs would be eliminated.

Atmos estimates that the increase, if granted, would result in a \$5 to \$10 increase in the average residential natural gas bill each month.

CURB has intervened and is in the process of investigating the company's request.

(KCC Docket No. 03-ATMG-1036-RTS)

(See KGS Rates, p. 2)

KGS Rates

(Continued from P. 1)

ous mobile home park gas distribution systems throughout the state.

The KCC in a previous docket had approved the project, citing evidence that numerous parks had unsafe conditions resulting from outdated, poorly-constructed and maintained gas distribution systems, many of which did not come close to meeting today's minimum safety standards.

Although CURB would have liked the increase to be smaller, the compromise resolved or deferred to a subsequent docket some of the more contested issues in the case, and allows us to go forward without worry that the KCC might have granted the full amount requested.

KGS also agreed to a moratorium that will prevent it from filing for another rate increase for almost three years.

At this writing, the Commission had not yet ruled on the settlement agreement, but it has until September 29 to make its decision.

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

New Utilities Director for KCC

After an eight-year absence, former KCC Utilities Director Don Low returned to the KCC in July to take up his former

role leading the Utilities Department.

Low returned to replace outgoing director Joe White, who left in May after serving as director for two-and-a-half years. A resident of Lawrence, Low most recently served as a regulatory attorney for Sprint.

Dave Springe, Consumer Counsel for CURB, said that he looks forward to working with Low again, and views his return as a positive development for the KCC.

KCC Nixes Cold Weather Rule Changes

After holding a roundtable in May to hear comments on possible revisions to the KCC's Cold Weather Rule, the Commission has notified the legislature that it is satisfied with the current provisions of the Rule.

The roundtable was held in response to a request from the Senate Utilities Committee, which deferred consideration of legislation proposed last session to codify the Rule.

In a letter written to the legislature, the Commissioners praised the parties who attended the roundtable and provided their wide-ranging views on whether the Rule should be modified or codified.

They noted, however, that codifying the Rule would severely limit the KCC's ability to respond quickly to

changing circumstances, such as the severe winter of 2000-2001, when the KCC extended the Cold Weather Rule for an extra month.

Additionally, the Commissioners expressed their opinion that there was no compelling need to revise the Rule at this time.

Although the legislature will be free to revisit the issue in the 2004 session, legislators attending the roundtable told reporters that the evidence they heard from the parties who work with the Rule every winter had convinced them that codifying the Rule was not a good idea.

KCPL Sets Peak Demand Record During Heat Wave

The recent spell of hot weather sent electricity consumption soaring in the Kansas City area, as air conditioners strained to overcome temperatures of 100-plus degrees in the northeast part of the state.

On August 21, demand at Kansas City Power and Light peaked between 3 and 4 p.m. at 3,610 megawatts, a one-hour peak demand record for the company.

The previous record was 3,488 megawatts, set on August 18.

The company noted that the number of customers it serves is growing, adding to the demand created by the record-setting temperatures in its service territory.

Kansas Energy Conferences Highlights

Four days of conferences devoted to various energy issues are coming up at the end of September and the first of October.

2003 Kansas Wind and Biomass Conference

Wichita, September 29-30

Starting off in Wichita on Monday and Tuesday, September 29 and 30, is the 2003 Kansas Wind and Biomass Conference. The first day's activities begin at 10 with an optional meeting of the Kansas Renewable Energy Working Group. This meeting is free and open to all.

The exhibit area opens at noon.

Delivering the opening remarks at 1 p.m. will be Gov. Kathleen Sebelius.

The first day of the conference will focus on the current status of Kansas energy supplies and production.

The second day will be devoted to breakout sessions discussing issues relating to wind and biomass energy production.

Registration is \$20 for Monday only, \$50 for Tuesday only, or \$65 for both days. Tickets for an optional dinner theatre event planned for Monday evening are \$20.

Information on this conference is posted at the KCC website at www.kcc.state.ks.us or you may contact Pinnacle

Technology, one of the conference's sponsors, at 785-749-9214.

Kansas Interconnection Implementation Workshop

Wichita, October 1

The KCC will co-sponsor the Kansas Interconnection Implementation Workshop in Wichita on Wednesday, October 1. The all-day conference will focus on interconnections among the nation's electric utilities. Opening the activities will be remarks from Jim Ploger, the KCC's Energy Program Manager; KCC Commissioner Bob Krehbiel; and Rep. Carl Holmes, Chair of the House Utilities Committee.

Registration is only \$20 and includes lunch and breaks. See the KCC website to register: www.kcc.state.ks.us or contact Jim Ploger at (785) 271-3349.

Kansas Summit on Natural Gas

Topeka, October 2

The State Energy Resources Coordination Council will host an invitation-only event in Topeka on Thursday, October 2 to ponder ways to cope with this coming winter's high natural gas prices.

Invitees to the Kansas Summit on Natural Gas will include representatives of the

legislature, energy agencies, producers, utilities, industries, economists, geologists, social service agencies, consumer advocates, energy reporters, and alternative energy experts—all gathered to brainstorm and share ideas about how Kansans should prepare to meet the challenges created by unusually high gas prices.

Co-sponsored by the KCC, the event will not be open to the public, but approximately 200 invitees from all over the United States are expected to attend.

Questions about the conference may be directed to Liz Brosius at the Kansas Geological Survey, 785-864-2063, or contact her by email at lbrosius@kgs.ku.edu.

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KCC Won't Check Out Condition of Westar's Utility Plants

The KCC has rejected a request from CURB to check out the condition of Westar Energy's utility plants.

Concerned by the growing body of evidence that during the reign of former CEO David Wittig, Westar Energy's management was focused more on lining executive pockets than on producing electricity, CURB had called for a limited inquiry into the condition of Westar's production facilities.

Citing employee cutbacks, budget cuts, management's indifference to utility concerns and accusations of whistleblowing employees, CURB had requested that the KCC ensure that the utility plants had not suffered damage that may threaten their long-term viability.

The KCC response was to tell CURB to use its powers of discovery to investigate for itself whether the utility plants were harmed by cutbacks or use of inferior fuels.

Although CURB was under the impression that it was the KCC's job to ensure reliability of electric service in Kansas, not CURB's, it has taken the suggestion under advisement. CURB is looking into the costs of such a large undertaking.

The KCC's rejection of CURB's request for a plant investigation came on August 13, the day before a massive blackout interrupted electric

service in much of the northeast United States and parts of Canada.

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

KGS Cancels Weatherproof Bill Program

Kansas Gas Service Company will not offer its customers the Weatherproof Bill Program this year. KGS had offered the Weatherproof Bill program for the past four years in conjunction with a company called Weatherwise.

The Weatherproof Bill Program allowed customers to sign up for a fixed monthly bill, which did not change for one year. Many customers who did not like fluctuations in gas bills liked the Program, which stabilized their monthly gas bills.

CURB opposed the Weatherproof Program because customers were charged administration fees that, on average, made the program more expensive than normal billing. However, the Program was popular with many customers.

It isn't known yet whether the company will revive the Weatherproof Program in the future. But for now, customers who liked the Weatherproof Program may find that the Average-Bill Payment Program at KGS will meet their needs.

While average billing does not result in a completely fixed bill like the Weatherproof Bill, by paying a bill based on your

annual average gas use, you'll get stable bills that won't change much from month-to-month.

Ask KGS about average billing if you are interested.

(KCC Docket No. 98-UGSG-611-TAR)

SWBT "Winback" Investigation Moves Toward Hearing

Over the past several months, the KCC has been investigating the procedures used by SWBT to win back consumers that have switched to other local service providers.

The investigation is focused on whether allowing SWBT to use discounts and other promotions to retain or win back consumers is legal under Kansas law and in the public interest. Of particular interest to SWBT's competitors is what information and procedures SWBT uses when conducting its "winback" campaigns.

The parties have engaged in substantial discovery over the past several months, but now the docket is finally proceeding towards an evidentiary hearing. SWBT filed its direct testimony last month.

CURB is currently working on its direct and rebuttal testimony, which will be filed later this week.

The evidentiary hearing is scheduled for November 3 - 7.

(KCC Docket No. 02-GIMT-678-GIT)

CURB, KCC Negotiating w/ SWBT to settle Broadband Deployment Issues

As reported in the June CURBside, SWBT admitted that it was behind on its broadband (DSL) deployment requirements.

Under a stipulation and agreement entered into in January 2000, SWBT agreed to deploy DSL “near ubiquitously” in 8 cities, and “where technically feasible” in another 16 cities.

The KCC ordered the deployment to be completed by August 1, 2003.

After CURB and KCC Staff objected to SWBT’s motion for extension of time, the parties started negotiating a settlement on this issue.

Through several negotiating sessions, the parties reached agreement on some key issues, but are still working out the technical details of the settlement agreement.

The parties have twice asked the Commission for an extension of time to finalize the agreement. Although negotiations have dragged on longer than anticipated, the parties are striving to reach a final agreement by the current deadline, September 15, 2003.

CURBside will bring you the details if and when the agreement is finalized.

(KCC Docket No. 98-SWBT-677-GIT)

FCC Releases Much-Anticipated Triennial Review Order

On August 21, the FCC released its Triennial Review Order, which outlines new rules for the unbundling of incumbent local exchange carrier (ILEC) networks to competitors (CLECs).

Although the FCC announced its decision in February, it took six months to issue the 576-page order. In anticipation of the FCC Order, the KCC had already opened a docket to deal with the unbundling issues posed by the FCC’s prior announcement.

The FCC Order found that CLECs are impaired in providing local circuit switching to residential and small business consumers on a national level. However, ILECs, such as SWBT, may rebut the national finding of impairment by petitioning the KCC.

The FCC set out specific criteria for the KCC to consider if SWBT petitions to rebut the impairment finding, including: defining the relevant market; specific triggers with respect to the number of competitors providing switching; and an analysis of the potential for additional deployment.

The Commission must complete this analysis within 9 months.

This issue clearly strikes to the heart of CURB’s constituency—residential and small business consumers. This promises to be a long and

difficult fight, but CURB’s attorneys and outside consultants are working to analyze the Order to ensure that our constituents are properly represented and considered in the fight over unbundling.

(KCC Docket No. 03-GIMT-1063-GIT)

Commission Approves Westar Restructuring Plan

Over CURB’s objections, On July 25, 2003 the KCC approved a debt reduction and corporate restructuring plan for Westar Energy.

Westar proposes to sell all of its non-regulated utility properties and use the proceeds to pay down debt. The result will be a corporate structure consisting only of its electric utilities.

In a settlement agreement submitted by Westar, the Staff of the KCC, and certain other intervenors in the case, Westar agreed to reduce its debt to a level consistent with investment-grade bond ratings; cut its dividend to 76 cents annually; and rebate \$10.5 million to consumers on May 1, 2005, and \$10 million on January 1, 2006. Westar is also prohibited from filing a rate case until May 1, 2005.

CURB believed that many of the elements of the restructuring plan were reasonable. However, CURB maintained that Westar should not

(See Westar Plan, page 6)

CURB Staff Members Serve State, Communities, in Civic, Professional and Social Service Roles

In addition to serving their fellow Kansans by fulfilling their professional roles as consumer advocates for utility ratepayers, members of the Staff at CURB also serve their state and their communities by serving on various state committees and volunteering in professional and service organizations.

For example, Consumer Counsel Dave Springe is a member of the governor's State Energy Resources Coordination Council (SERCC), a task force charged with developing long-range energy policies for the State of Kansas.

He is also one of Governor Sebelius' appointees to the governor's Infrastructure Sub-Cabinet Task Force, which is considering ways to streamline state government and better integrate the state's computer networks and other communication systems.

Springe also serves on the Electricity Committee of the National Association of State Utility Consumer Advocates (NASUCA).

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Attorney Niki Christopher represents CURB in the Low-Income Utility Coalition of Kansas (LUCK), a group designed to keep members informed of developments relevant to the provision of private and public assistance with utility bills to low-income Kansans.

A Lawrence resident, Christopher is also Vice-President of the board of directors of the Social Service League of Lawrence, and Chair of the organization's Building Committee.

Christopher and fellow CURB Attorney Brent Getty often serve as CURB's representative at SERCC or Infrastructure meetings when the Consumer Counsel is fulfilling his many other obligations.

CURB Staffers Beth Runnebaum and Audrey Bosley have both become certified as notary publics, serving a valuable role not only for the attorneys of CURB, but for others in our building, as well.

Additionally, Bosley is a volunteer with Catholic Social Services in Topeka.

Through their voluntary activities, members of the CURB Staff are striving, each in their way, to be useful members of their professions, their communities, and their home state of Kansas.

(Editor's Note: A future article will highlight the civic, professional and social service activities of CURB's five board members, who, in addition to voluntarily serving on CURB's board, are also active in serving their state and their communities in other ways.)

Westar Plan *(Continued from page 5)*

continue to pay out over \$50 million annually in dividends to shareholders while maintaining consumer rates at an excessive level.

CURB argued that the \$50 million devoted to dividends annually would be better spent paying down debt. Further, CURB argued that if the KCC found that customer rebates are appropriate, then the two rebates of \$10 million each were too small.

Westar argued that the dividend payments were necessary for Westar to access capital markets. One element of the Westar plan is that Westar will issue more shares in the market to provide further money to pay down debt.

However, under cross-examination, Westar executives would not commit to a specific level of equity issuance if the sale of other Westar assets generated less money than anticipated.

The Commission found Westar's plan persuasive and overruled CURB's arguments on the dividend payment policy.

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



Low Income?

You may be eligible for as much as a **\$15.00 discount** on your phone bill, or **help with getting connected**. Call your local telephone company and ask about the **Kansas Lifeline Program** and **Link Up America**.

Consumer Counsel's Corner

I have recently been called "Chicken Little" by some local media. Now, I've been called many things in my years at CURB, but Chicken Little is a new one.

My new moniker is the result of my efforts to get the word out to Kansas consumers to expect higher than normal gas bills this winter, and to prepare accordingly. I suppose after awhile, it does begin to sound like the sky is falling.

But is the sky falling? As far as your monthly gas bill goes, that depends on three things: the price of natural gas, how cold it gets this winter, and how much gas you use to heat your home.

First, the price of natural gas is at an historic high. Where, in most years, natural gas prices have ranged, on average, between \$2.50 and \$3.00 per million cubic feet (Mcf), prices this year have been as high as \$6.50 per Mcf.

While prices appear to be stabilizing around the \$5.50 per Mcf range, these prices change on a daily basis.

Add to this the \$1.00 to \$2.00 per Mcf for upstream transmission (to get the gas to your local utility), and consumers could realistically see their gas bills double.

Second, the weather is the great unknown. A sustained cold snap, especially in October, November or December could force prices even higher.

Sustained cold weather also causes you to use a lot more gas to heat your home than you would during normal weather conditions.

Use more gas at higher prices, and you could be in for a shock when you open your bill.

The one thing that you can control as a consumer is how much gas you burn. For most residential customers, 70% of your monthly bill is for the natural gas you use.

So now is the time to be preparing for this winter.

Increase your attic insulation, caulk your windows, have your furnace serviced, close off rooms you do not use, install a programmable thermostat and keep your thermostat set very low.

It will pay to be prepared this year. Setting aside some extra money so it is available this winter wouldn't be a bad idea either.

Also, all utilities have average-pay plans that help spread the high winter bills over the entire year. But you must be current on your bills to qualify for an average-pay plan—don't wait until you are behind to apply.

But what if the sky doesn't fall? I guess I run the risk of being labeled Chicken Little forever. But I suppose that if I'm wrong, and I hope that I am, we can all use that extra money we've set back to pay the gas bill and take a little vacation. That can't be all bad, because even Chicken Little survived being wrong.

--Dave Springe

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you can:

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