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 OCT. 2007

Westar Energy commits $500+ million to wind

On October 1, Westar Energy announced its plan to acquire almost 300 MW of wind power as a part of the deal several state utilities struck with Governor Kathleen Sebelius to provide Kansas with more wind power plants.

Westar has reached agreements with three wind developers that will result in the acquisition of roughly $282 million in wind generation assets. The cost of purchased-power contracts will boost the company's total expenditure to somewhere over $500 million.

Westar will own the Central Plains Wind Farm, a 99 MW plant to be built by RES America Developments, Inc., in Wichita County between Leoti and Scott City.

Westar will own half of the Flat Ridge Wind Farm, a 100 MW plant to be built in Barber County. Westar will purchase the other half of the plant's output. BP Alternative Energy North America Inc. is the developer, through its subsidiary, Flat Ridge Wind Energy LLC.

Westar also plans to buy 96 MW of power from the Meridian Way Wind Farm, a 201 MW plant to be built, owned and operated by Horizon Wind Energy.

The *annual* rate impact of 300 MW is expected to be somewhere between $40 million and $50 million. Westar announced that the average residential customer bill would increase about $2.00 to $2.50 per month as a result of adding these wind assets to Westar's generation mix.

The cost of the additional 200 MW of wind power that Westar has promised to acquire has not been determined as yet.

Westar's request for pre-approval of these expenditures for wind is the first filed under K.S.A. 66-117(e), which allows the KCC to approve additional profits for utility shareholders on investments in renewable energy projects. Westar is asking for an additional 1% return over the return on equity established in its recent rate case.

CURB's board supports wind power as a part of a balanced portfolio of generation, but wants assurances that wind capacity is acquired at the most economical rate for consumers. CURB is concerned that Westar's estimate of the impact of its wind projects on customers did not include many additional expenditures that it will be making in the near term. The company already has plans to double its investment in plant over the next ten years, which will add over $2.3 billion to the rate base by the end of 2009. That $2.50 a month increase simply isn't going to cover it all.

Here's why: Westar has sought and received approval for expenditures of about $318 million for a gas peaking plant near Emporia to help support the wind power additions, and there may be a need for even more peaking capacity to be built as more wind power is added to Westar's system.

Additionally, Westar is currently in the process of adding about $307 million in additional transmission, mostly in central Kansas. Further, Westar just added 225 MW from the Spring Creek plant in Oklahoma that it bought last year, which Westar will be bringing into the rate

*(See **Westar wind**, Page 2)*

KCPL Rate Case Settlement Reached

CURB, Kansas City Power & Light, the Staff of the Kansas Corporation Commission and other intervenors have entered into an agreement that settles all disputed issues in KCPL's recent request to increase consumer rates by $47 million.

The agreement was presented to the commissioners in a September 19, 2007, hearing. The commissioners must make a decision on the agreement by early December.

In KCPL's second rate case application under its $2.5 billion resource expansion plan, KCPL sought to increase consumer rates $34.2 million for traditional cost elements, plus sought an additional $12.8 million for cash flow support. KCPL also sought to implement an Energy Cost Adjustment to flow fuel costs and off-system sales revenues to consumers on a monthly basis.

According to the proposed settlement, KCPL will be allowed to increase traditional rates by $17 million annually, rather than the $34 million requested. KCPL will also be allowed to increase rates by an additional $11 million as a pretax prepayment on plant. The pretax prepayment is designed to aid KCPL with cash flow during the construction phase of the resource plan and provide consumers with lower long-term costs when the resource plan is completed. Consumers will get a dollar-for-dollar offset to future plant costs when the Iatan 2 generating station comes on line as a part of this prepayment obligation.

KCPL will also be allowed to begin charging fuel costs through an Energy Cost Adjustment. While CURB has historically opposed ECA adjustments, KCPL is the last electric utility in the state without an ECA. As a compromise, KCPL will forecast and set the ECA prices each quarter, rather than monthly, and will provide those prices to consumers in advance. Unlike the customers of other utilities with ECAs, KCPL's customers will be notified of the fuel cost *before* they use the electricity, rather than finding out the fuel price after the bill arrives.

KCPL will also be required to credit consumers with 100% of the revenue from sales of power to off-system (non-KCPL) customers through the ECA. This is a substantial revenue source that will help offset the increase in KCPL's rates. While KCPL's base rates will increase a total of $28 million, if current off-system sales revenues and fuel cost projections remain steady, the amounts credited to KCPL's customers through the ECA should result in a net increase in overall rates of only $17 million.

While individual bills will vary, the net residential rate increase is about 7%. The net increase for small commercial customers is under 1%. The KCC Staff projects that the increase will be about $6 per month for the average residential customer.

Frequent rate increase requests were anticipated under the company's resource expansion plan. KCPL received a $29 million increase in rates December 6, 2006 (*KCC Docket No. 06-KCPE-828-RTS)*, and is expected to file its third rate increase request in as many years in March 2008.

KCC Docket No. 07-KCPE-905-RTS

Westar wind

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base in its next rate case.

That's not all. The company also projects a need for 300 MW more peaking capacity by 2012, and says it will need to add 600 MW in baseload capacity in the next 8 years or so.

Westar is also in the process of revamping and upgrading environmental equipment on several of its plants, an expenditure of almost half a billion dollars. These upgrades alone will add roughly $75 million annually to customer rates over the next few years.

CURB Consumer Counsel Dave Springe said their is little doubt that Westar customers are facing substantial increases in the next few years as these projects are completed and added to the rate base. That's why it is vital that regulators thoroughly review Westar's projects to ensure that these expenditures are made prudently and in the most economical manner possible.

KCC Docket No. 08-WSEE-309-PRE

Atmos Seeks $6.45 Million Increase

On September 14, 2007, Atmos Energy filed an application with the Kansas Corporation Commission to increase consumer rates. While the Atmos application purports to request increased revenues amounting to $4.98 million annually, a closer reading of the application reveals that Atmos is proposing to increase rates for residential and commercial customers by $6.45 million annually.

Atmos claims that at the proposed rate level, the bill for the average residential customer will increase $46.75 annually—a 19.3% increase over current rates. The bill for the average commercial customer will increase $118 annually, a 14.9% increase over current rates. Rates could increase further if the KCC approves several additional surcharges that Atmos has proposed.

In its application, Atmos claims that increased wages, medical expenses, material and supply costs, as well as its increased investment in utility plants are driving the need for additional funds. At current rate levels, the company claims that its overall return on rate base is 6.26%, which, according to the company, is too low to continue to render reasonable, sufficient and efficient service to customers.

Atmos claims that high natural gas prices have caused consumers to conserve energy and to use less natural gas, cutting into Atmos's profit margins. Atmos is proposing a Customer Utilization Adjustment (CUA) surcharge to guarantee that the company's profit margins do not fall further. Under the CUA, if consumers continue to reduce energy consumption, Atmos will put a surcharge on consumer bills to make up for Atmos's revenue losses.

Atmos is also seeking to put additional separate surcharges on consumer bills for Gas System Reliability, and for Atmos's proposed Advanced Metering Infrastructure. If approved, these surcharges will increase rates even further.

Atmos's last rate increase was granted in January 2004. Atmos Energy serves 123,750 customers in Kansas. It provides natural gas service to 106 communities in 33 counties, including the Kansas City area communities of Olathe, Bonner Springs, DeSoto, Overland Park, Shawnee, and Lenexa; the southeast Kansas communities of Independence, Coffeyville and Yates Center; Council Grove and Herrington in central Kansas; Anthony and South Haven near Wichita; Ness City in northwest Kansas; and Ulysses and Johnson City in southwest Kansas.

CURB is reviewing the application. The KCC must make a decision by the middle of May 2008.

You can review Atmos' rate application online the KCC's website at www.kcc.kc.gov by entering the docket number below in the search box.

KCC Docket No. 08-ATMG-280-RTS

KCC Grants CURB Reconsideration on How$mart Loan Program

On August 16, the KCC approved Midwest Energy's pilot energy conservation program called How$mart. How$mart is 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 to the homeowner or the tenant.

The KCC's August 16 Order granted Midwest's request for authority to shut off gas or electric service for nonpayment of the How$mart obligation.

CURB opposed this aspect of the proposed program because it constitutes a major departure from longstanding Commission policy, which has only allowed gas and electricity shutoffs 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

*(See **How$mart**, Page 4)*

How$mart

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electricity service provided by Midwest.

The KCC's August 16 Order also granted Midwest's request for authority to seek recovery of bad debts resulting from the How$mart program from other ratepayers, which CURB opposes on the grounds that other ratepayers should not be required to pay for energy-efficiency products installed in the homes or businesses of other ratepayers.

On August 31, CURB filed a petition for reconsideration of the Commission's August 16 Order. CURB argued that the Commission's Order allowing disconnection for nonpayment of How$mart services is erroneous, is not supported by substantial evidence, is unreasonable, arbitrary and capricious, and is unjustly discriminatory and unduly preferential.

On September 24, without making any finding or ruling on the substance of the issues raised by CURB in its Petition for Reconsideration, the KCC granted CURB's petition and set the matter for oral argument on October 11, 2007.

KCC Docket Nos. 07-MDWG-784-TAR and07-MDWE-788-TAR

ITC Great Plains announces first transmission project

ITC Great Plains, the first utility in Kansas that will own and operate only electric transmission lines has announced its first project. On July 19, 2007, ITC Great Plains announced its intent to construct, own and operate a 180-mile long transmission line in southwest Kansas. The line will begin near Spearville, Kansas, just northeast of Dodge City, and run southeast to Comanche County, where ITC plans to build a new transmission switchyard. The line will then continue from the new switchyard northeast towards Wichita.

ITC claims the line will enhance reliability on the electric transmission system in Kansas, and will spur economic growth by facilitating the development of wind farms in southwest Kansas.

The Southwest Power Pool must approve the line, but ITC expects to have the line in service by late 2010. The line is similar to, and may replace, the north half of the "X-Plan," a Southwest Power Pool transmission expansion project that will create a rough "X"-shape of new transmission paths running through southern Kansas, Oklahoma and portions of northern Texas.

There's no word yet on how much ITC's transmission line will cost, or who will have to pay those costs. ♦

2007 Renewable Energy Conference:

Speakers see the future of Kansas bakin' in the sun, blowin' in the wind

Commentary by Niki Christopher

The 2007 Kansas Renewable Energy and Energy Efficiency Conference was held September 25 and 26 in Topeka. Organizers claimed record attendance for the event.

Wes Jackson of the Land Institute in Salina and Lieutenant Governor Mark Parkinson were perhaps the most well-known speakers at the conference.

Jackson, whose Land Institute researches sustainable agriculture, gave a rambling talk about global warming and the need to act now to reverse its effects. While Jackson always has an inspirational lesson for his audience, following his train of thought can be as tough as holding on to the tail end of a prairie twister.

Parkinson's speech was more focused. He spoke on the need for Kansas to accelerate the construction of wind power farms and transmission lines to export power out of the state. He suggested that a national renewable portfolio standard, which would require utilities to furnish their customers a specified proportion of power from renewable sources, would push Kansas to the forefront of being an exporter of wind power.

Parkinson also speculated that a national carbon tax, if enacted, would make the price of power produced with wind cheaper than power produced with coal. It is likely, he said, that wind power from plants built today will "probably be cheaper" than power from coal plants in the future.

Parkinson speculated that Kansas could build as much as 7000 MW of wind generation if Congress passed a 30% national renewable portfolio standard. "How can Kansans oppose this?" he asked. Although his vision would only be achievable through Congressional action to increase the cost of carbon-based power, he stated that "market forces will make wind the most economical power source."

Parkinson emphasized that increasing the proportion of renewable energy in Kansas is a "collaborative process" among the governor's staff, utilities, the KCC and consumers. However, CURB is still waiting for the knock on our door to join in.

A tough question remains on the back burner: How will Kansas pay for a greener energy future?

With a few notable exceptions, few of the presentations at the conference addressed the costs of renewable energy and energy efficiency. Many of the presenters proposed providing more incentives to utilities and developers of wind farms and ethanol plants—but few offered hard facts about how much "incentive-izing" the conversion from carbon-based fuels will cost consumers. To give some credit where credit is due, some of the legislators at the conference expressed their concern about potential costs to their constituents, and one transmission developer frankly admitted that an all-out effort to build state-wide transmission would be quite costly to consumers. However, hard numbers were hard to come by at the conference.

While CURB's board has decided to support greener policies for Kansas, we continue to wrestle with the challenges of keeping utility bills affordable for all Kansans. We know that a lot of customers are willing to pay extra for renewables and are eager to support the cost of demand-side management programs—and can afford to do so. Unfortunately, there are a whole lot of us who can't.

CURB is obligated to take a step back and take a close look at how significant increases in utility bills will impact *all* of the people we represent. And believe us, although the shift away from carbon-based fuels may be good for us over the long term, it is going to increase utility bills significantly over the next few years. We want to be able to provide honest, accurate information to utility customers about how much a greener Kansas will cost. But the conference isn't a place where hard answers will be found.

While it was encouraging to see so many Kansans at the conference who are interested in learning more about new energy technologies, the overall tenor of the event is to provide cheery moral support for those who advocate for renewables, while providing very few specifics to those who are longing for a more objective look not only at the opportunities but the costs that we are facing as Kansans as we attempt to create a greener state. We don't need more cheerleading at this point: we're all pretty much sold. What we need now are serious discussions about how much we as a state are willing to invest in green technologies, and serious discussions about how the costs will impact customers.

In the utility regulation business, we often weigh proposals that will increase rates by putting them to what we affectionately think of as the "little old lady in tennis shoes" test. We ask ourselves how will this impact the elderly on fixed incomes? Persons on disability? Low-income families? We ask, Will the benefits of the proposal outweigh the negative impact on such customers? Are they willing to suffer the impact to achieve a positive purpose? While we know that most Kansans would like to leave a better world for their kids and grandkids, we also know that 10% of the adults and almost 20% of the state's children live in low-income households: can they afford to support a greener energy future by paying higher utility bills?

These are tough questions, but they should become an integral part of the debate among the state's policymakers about Kansas' energy future.

We think next year's conference would be a great place to start. ♦

Telephone Billing Standards Hearing

As we reported in April, the KCC scheduled an evidentiary hearing for August 20-21, 2007, in the docket that is reviewing billing practices standards for telecommunications providers. CURB participated in the hearing and filed its initial post-hearing brief on September 19 and its reply brief on October 10.

While the hearing was scheduled to resolve disputes with the latest revisions to the billing standards proposed by Commission Staff, CURB is quite concerned that the parties were told for the first time at the outset of the hearing that their witnesses should be prepared to respond to the following question posed by Commissioner Moffet: "What would your concerns be if the KCC were to simply adopt the FCC's Truth-in-Billing Standards as our standards and then enforce them, rather than a separate set of standards?"

CURB's brief points out that this docket has been proceeding for over two years, and the entire focus of the docket has been, *at the direction of the Commission*, to address revisions to the Commission's telephone billing practices standards proposed by Staff. Commissioner Moffet's proposal to abandon Kansas specific standards *on the day the evidentiary hearing started* was unfair to the parties, especially since no party had suggested that the Com-mission adopt the FCC Truth-in-Billing Standards and abandon the Kansas-specific standards that have provided protection to Kansas ratepayers for nearly 25 years.

CURB witness Michael Lura outlined for the Commissioners numerous protections not addressed by the FCC Truth-in-Billing rules but covered under Kansas billing standards, including: deposits, disconnections, billing frequency, advance billing, billing period and due date, alternative billing formats, third-party collect call billing, high long-distance pre-billing, refunds for service outages, carrier selection, notification of change, negative selection, payment due dates, weekend holiday payment due dates, partial payments, payment arrangements, delayed billing, security deposits and credit limit standards.

CURB also pointed out that the record is devoid of any meaningful evidence or analysis of the FCC's Truth-in-Billing Standards, and that rescinding the Kansas-specific billing standards is anti-consumer, not in the public interest, and unsound policy.

CURB witness Lura and CURB's post-hearing brief both urged the Commission to prohibit misleading and deceptive line-item surcharges not authorized or mandated by law. CURB believes many of the surcharges currently charged by telephone companies in Kansas are deceptive and misleading, and is asking the Commission to prohibit them in the Commission's new billing standards.

CURB is also asking the Commission to eliminate various opt-out proposals which would allow carriers to avoid the requirements of the Kansas-specific billing standards.

KCC Docket No. 06-GIMT-187-GIT

KCC refuses to reconsider Westar case

CURB and two other parties are heading back to the Kansas Court of Appeals, seeking relief from erroneous orders of the KCC in Westar's 2005 rate case.

On September 13, the KCC rejected the petitions for reconsideration of CURB, the Kansas Industrial Consumers and Unified School District No. 259. At issue is how to calculate refunds due to customers because the transmission delivery charge approved by the KCC was found to be illegal, whether the KCC properly reversed its longstanding policy to credit ratepayers with the proceeds from a plant that was sold and leased back by Westar, and whether it properly addressed a new income tax issue that was raised by Westar for the first time on remand.

CURB, KIC and USD 259 are all planning to appeal by the September 15 deadline, which makes the second time that the representatives of consumers have sought relief from the Court of Appeals in this case. We'll keep you posted on how it goes this time around.

KCC Docket No. 05-WSEE-981-RTS

KCPL joins national push for regulatory reform on energy efficiency

On September 27, Great Plains Energy—the holding company that owns Kansas City Power and Light—announced that it has joined a coalition of seven other utilities that have "committed to seeking regulatory reforms and approvals to increase their investment in energy efficiency by $500 million annually."

The commitment was made as a part of the utilities' participation in the Clinton Global Initiative—former president Bill Clinton's project that seeks voluntary commitment from corporate leaders to attack pressing world problems.

According to CGI's press release, the eight companies are making a 10-year commitment to "work collaboratively with policymakers to enhance energy efficiency investments" and to "broaden and deepen the commitment to energy efficiency throughout the electricity sector."

GCI predicts that over the next 3 years, the companies will invest a total of $1 billion a year, which would result in avoiding approximately 5 million tons per year of carbon monoxide emissions. Investment is expected to increase to $1.5 billion annually in the following 7 years. If successful, GCI claims that the increased levels of energy efficiency would reduce peak demand sufficiently to avoid the necessity of building as many as fifty 500 MW plants.

KCPL already has several energy efficiency programs in place, and says that its energy efficiency programs will result in avoiding the necessity of building 181 MW of additional capacity by 2010—about half of KCPL's expected capacity needs. It wasn't clear from the press releases how much Great Plains' commitment to CGI will increase its expenditures.

It was clear, however, that the focus of the coalition will fall squarely on seeking legislative and regulatory changes that will increase profits for shareholders for their investments in efficiency.

However, Kansas, like many other states, already has a statute in place that provides up to a 2% premium on the company's return on equity for investment in renewable energy and energy efficiency. With eight major utilities with 20 million customers joining together to lobby for additional enhancements to shareholder profits, no telling how far this trend will go.

While CURB is supportive of reducing demand and increasing energy efficiency, customers in many states are already paying a premium for the privilege of using less. We're not sure that it's necessary to provide additional incentives for utilities to do the right thing. It's in everyone's interest to ensure that our nation has a healthy energy future.

Midwest Energy Seeks to Defer Plant Costs

On August 17, Midwest Energy filed an application seeking approval from the KCC to defer recovery of costs of a new plant until 2008. The company has asked for what is called an accounting order, which would allow it to record expenses for the plant, and allow Midwest to recover them in a later rate case.

Midwest is currently building a 76 MW gas-fired peaking plant near Hays. The first phase of the Goodman Energy Center will be operational in June 2008. The second phase will come on line the following September. Normally, Midwest would simply include a request in its next rate application for recovery of the money it has spent on the plant during the test year. Midwest plans to file an application for a rate increase this December.

However, Midwest cannot increase rates for some of its customers until after a five-year moratorium has expired. When Midwest acquired some customers from Westar Energy in 2003 (the "W" system), Midwest promised not to increase their rates for five years. Midwest believes that the five-year moratorium expires August 2008.

Midwest believes that if its rate increase is granted, rates would be increased prior to he

*(See **Midwest Deferral**, Page 9)*

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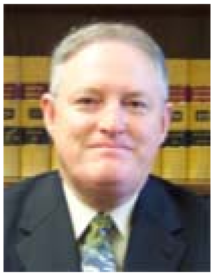

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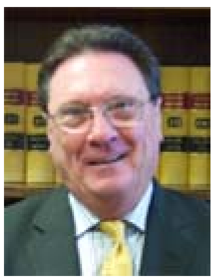

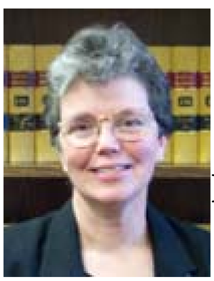

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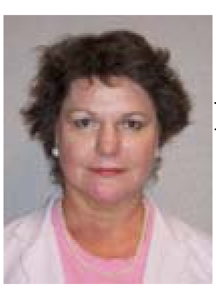

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KETA announces it will build Axtel-Spearville line

The Kansas Electric Transmission Authority (KETA) has provided notice of its intent to plan, develop and construct a 345 KV electric transmission line that will run from the vicinity of Spearville, Kansas to near Axtel, Nebraska, with the option of terminating the line in the vicinity of Hays, Kansas.

KETA estimates the line will cost approximately $186 million to build.

A study performed by the Southwest Power Pool estimated that the KETA transmission line would provide "dispatch and violation" savings of $193 million over 40 years, assuming a 6% discount rate. A previous SPP study assuming an 8% discount rate showed the line would cost more to build than it would save over 40 years. Both studies show that of the projected cost savings, only 51% will be reaped by Kansas in 2010, and the savings to Kansas will fall to 38% by 2020. The balance of the savings will accrue to other states. KETA said the project is justified by other benefits not included in the SPP study.

This is the first project proposed by KETA. Pursuant to the KETA statute, within 90 days after KETA publishes notice of its intent to build, a private entity may step forward and commit to build the KETA proposed line. If a private entity commits to build the transmission line, KETA will not build the project but will monitor the private entity's progress to ensure that the line gets built.

KETA's next meeting is schedule for December 3, 2007. It is anticipated that the public will find out at that meeting whether any private entities have committed to build the KETA transmission line.

KETA was created in 2005 to expand and improve the electric transmission system in Kansas. KETA is run by a seven-member board made up of four legislators and three appointees of the governor. KETA has the authority to issue revenue bonds to build transmission lines, has eminent domain authority, and is not regulated by the Kansas Corporation Commission, with the exception that the KCC must ensure recovery of KETA's expenses, if requested.

For additional information, go to KETA's website at http://www.kansas.gov/keta.

KETA's authorizing statutes can be found at K.S.A. 74-99d01 *et seq.*

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Midwest Deferral

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expiration of the moratorium for W system customers. Rather than increase rates for some of its customers, then increase them later for other customers, Midwest wants to defer recovering the costs of the Goodman Energy Center until after all units are in service. Then it will ask to recover those costs in its next rate case.

There is a dispute among the parties as to whether August 2008 is the date upon which the rate moratorium ends for W system customers, or whether it is the earliest date upon which Midwest may file an application to increase their rates. The order approving the settlement stated that Midwest agreed "not to seek" an increase for five years. CURB believes that means Midwest may not file an application for a W system increase until the five years has ended. Midwest believes that the order's language means that Midwest may file its request for an increase before the five years end, but must wait until the five years has ended to actually increase W system rates.

If Midwest's interpretation prevails, W system customers will get an increase about 8 months earlier than they would under CURB's interpretation of the terms of the moratorium. Preliminary talks haven't resolved the issue as yet.

This docket is just getting rolling; we'll keep you updated.

KCC Docket No. 08-MDWE-180-ACT

KCC Closes Energy Efficiency Docket, Opens Two More

More than a year after the KCC opened a docket to investigate when and how utilities should promote energy efficiency programs and what ratemaking treatment should be accorded such programs, on October 10, the KCC issued an order that closed the docket and ordered the opening of two more that will continue its investigation.

The order answered few of the questions that the docket was initially intended to answer, but instead indicated that the Commission intends to bifurcate the proceedings into one docket that will develop methods of evaluating energy efficiency programs, and another that will determine appropriate ratemaking treatment for them.

A major question left unanswered is whether the KCC has the authority to order the utilities to implement energy efficiency programs. The order dodged the question by noting that many of the state's major utilities are already offering a variety of energy efficiency and conservation programs to their customers, and the KCC wants to encourage more such programs by engaging in collaborative efforts with the utilities and consumers to streamline the approval process.

Although the Commission noted that it has been directed by the legislature to develop a comprehensive state energy conservation plan, and the Commission said there was a need to develop such a plan, the Commission generally concluded that developing methods for evaluating utility-created plans and developing a policy for cost recovery would be sufficient to satisfy that mandate.

The order did answer a few of the questions posed in the initial investigation, however. The Commission determined that its authority to approve energy efficiency programs is not limited by the prohibition against discriminatory rates, because the programs address energy service characteristics and the impact on utilities of customers using the system, and are not administered on the basis of financial need.

The Commission also stated that it did not believe that the legislature limited its authority to provide utilities additional incentives to develop energy efficiency and conservation measures by passing K.S.A. 66-117(e), which allows the KCC to grant up to a 2% increase in the rate of return on investments in energy efficiency programs. The KCC noted its broad authority and discretion to establish just and reasonable rates would permit it to grant other types of incentives, such as decoupling of natural gas rates, for example.

The KCC said that it intended to conclude the docket establishing evaluation procedures within six months, and the docket addressing ratemaking treatment within nine months. We'll keep you posted. ♦

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