CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

THIRD QUARTER 2024

THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

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Settlement Agreement Approved in Kansas Gas Service's Rate Case

KCC Docket No. 24-KGSG-610-RTS

On March 1, 2024, Kansas Gas Service, Inc. ("KGS") filed for an increase of its base rates. Initially, KGS's overall requested increase was $93.1 million, inclusive of $35 million revenue that is currently collected through the monthly Gas System Reliability Surcharge ("GSRS"). Thus, KGS initially requested a net increase to base rates of $58.1 million (because resetting the GSRS surcharge to $0 will not have a net bill impact on KGS customers).

During the week of July 31, 2024, parties to the docket (including CURB) met and were ultimately able to resolve all outstanding issues. A unanimous settlement agreement was submitted for the KCC's consideration on August 5, 2024, and subsequently approved on October 3, 2024.

There are a number of provisions in the settlement agreement that resolved key issues. First, parties agreed to an overall annual revenue increase of $70 million, inclusive of the rebasing of GSRS. CURB initially recommended an overall increase of $45.8 million in direct testimony. Compared to KGS's initial recommendation of $93 million, the final result is approximately halfway between CURB's and the Company's initial positions. The annualized average monthly bill for a residential customer with average usage will increase by approximately $3.83.

CURB and other parties put forward varying numbers for KGS's Return on Equity (ROE) and capital structure in direct testimony. However, parties chose not to establish a specific ROE or capital structure, only a revenue requirement.

KGS agreed to withdraw its request to implement the Annual Performance-based Rate Adjustment mechanism. KGS also agreed to withdraw its request to implement the usage-based "A/B Rate structure" for the residential class. Under the A/B rate structure, customers could choose either rate plan A (lower fixed charge, higher usage charge) or rate plan B (higher fixed charge, lower usage charge). However, because KGS requested an overall rate increase, the proposed "low" customer charge was still higher than the current customer charge. CURB strongly opposed both proposals due to the potential of shifting the risk of under-earning revenue from shareholders to ratepayers, as well as the disparate impacts on customers' bills due to seasonal usage behavior.

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Parties agreed to allocate 75% of the overall increase amount to the residential class, which is below what the Company and CURB had recommended.

The agreement also reinstates the fees associated with disconnections and reconnections after non-payment in the amounts of $15.00 for disconnection and $20.00 for reconnection. Notably, CURB retains its right to present additional arguments opposing these fees in a separate active KCC docket, Docket No. 24-GIMG-453-GIG.

On August 13, 2024, CURB participated in the evidentiary hearing regarding the settlement agreement. The Commission questioned three witnesses, including CURB's witness Andrea Crane. This hearing was recorded and can be viewed at the KCC's YouTube channel.

On October 3, 2024, the Commission approved the agreement in its entirety. The new rates will take effect November 1, 2024.

KCC Approves Southern Pioneer's Annual Formula-Based Rate Adjustment

KCC Docket No. 24-SPEE-688-RTS

On May 1, 2024, Southern Pioneer filed an application requesting adjustments to its Formula-Based Rates ("FBR").

From a regulatory perspective, Southern Pioneer is a unique utility. It is a not-for-profit utility regulated by the KCC, yet, it is a subsidiary of Pioneer Electric Cooperative, Inc. ("Pioneer"), which is not subject to KCC regulation for ratemaking purposes. Therefore, Southern Pioneer does not file typical rate cases before the KCC like other regulated for-profit public utilities in Kansas, rather it implements most of its rate changes through a formulaic process.

The Commission has approved a debt service coverage ("DSC") ratio of 1.60 to provide funding for Southern Pioneer. The DSC ratio is a financial ratio used to assess the ability of a firm to pay its debt obligations. Southern Pioneer files an annual FBR review, wherein the Commission-approved billing protocols require Southern Pioneer to increase its rates when the DSC ratio falls below 1.60 or decrease its rates when the DSC ratio is above 1.60.

On July 30, 2024, the Commission issued its order approving a total retail revenue increase of $840,462. This change was implemented simultaneously with the rate changes discussed in the following article.

KCC Approves Southern Pioneer's Request for Residential kW Demand Charges

KCC Docket No. 24-SPEE-415-TAR

On November 30, 2023, Southern Pioneer Electric Company ("Southern Pioneer") filed an application requesting several "revenue-neutral" changes (i.e., individual customer bills may increase or decrease because of these changes, but overall revenues should remain the same) to its rate design. Eventually, the involved parties (including CURB) came to a partial settlement wherein certain provisions were agreed upon; however, two provisions were disputed and set aside to be argued at a hearing.

The agreed upon provisions included:

- Transition customers from Residential and General Service Small classifications to Single-Phase or Three-Phase classifications based upon the power supply of service.
- Eliminate the Space-Heating subclasses, transitioning those customers into the applicable Single-Phase, Three-Phase, or General Service Large classes. Any associated rate increases will be phased in to avoid rate shock.

The disputed provisions were:

- Require a three-part rate structure, which includes the traditional fixed charge and volumetric energy usage charge, plus a Demand Charge of $3.00 per kW for Single-Phase Service, with a corresponding reduction to Energy Charge. The kW demand will derive from the customer's average kW load during the 15-minute period of maximum use during the month. Notably, the demand period is not tied to the overall system peak demand.
- Increase the Customer Charge for Single-Phase Service to $16.67 per consumer per month, from $14.67.

CURB strongly opposed the mandatory demand charge for several reasons. First, CURB is not aware of any investor-owned public utility in the U.S. that has successfully implemented a mandatory demand charge for residential customers. Second, demand charges are difficult for most residential customers to understand and require additional effort to monitor and control. Third, CURB views Southern Pioneer's request as an end-around attempt to circumvent statute that prohibits rate structures that are discriminatory toward customers with self-generation (e.g., rooftop solar). Such customers comprise a miniscule portion of Southern Pioneer's total residential customer class.

On June 4, 2024, CURB participated in the evidentiary hearing on Southern Pioneer's proposal and the settlement agreement, which primarily focused on the disputed issues. The Commission questioned several witnesses, including CURB's witness Glenn Watkins. This hearing was recorded and can be viewed at the KCC's YouTube channel. Subsequently, on June 26, 2024, CURB filed its Post-Hearing Brief restating its reasons for opposition of those provisions.

On July 30, 2024, the Commission issued its Order. By a 2-1 majority, the Commission approved the unanimous partial settlement, along with the mandatory demand rate structure and increase of the Single-Phase customer charge to $16.67. Notably, one of the three Commissioners expressed dissent against the Order. Commissioner French did not support the implementation of a mandatory demand rate, expressing that demand charges add an extra layer of pricing complexity and make bills "more opaque."

KCC Approves Southern Pioneer's Renewable Energy Program

KCC Docket No. 24-SPEE-540-TAR

On January 31, 2024, Southern Pioneer filed an application requesting to implement a Renewable Energy ("RE") Program Rider tariff.

Southern Pioneer receives its power supply from Sunflower Electric Power Corp. ("Sunflower"), which developed the RE Program. Participation in the RE Program is voluntary and the RE Program is designed so that no associated costs shall be collected from non-participants. Broadly, the proposed RE Program offers multiple sub-programs across two tiers (residential and commercial) and two divisions (wind and solar).

For residential customers, the only RE Program offering is the Tier 1 Residential Community Solar Program. Participating residential customers subscribe to pay for "shares," which represent renewable energy produced by the Johnson Corner Solar Project, located in Stanton County, Kansas. This solar project is already part of Sunflower's generation portfolio. There is no term commitment required for participation; participants can cancel at any time. Subscriptions are sold on a first-come, first-served basis at a monthly cost of $5 per 125 kWh share ($0.04 per kWh), until the allocated shares are fully subscribed. Participants may subscribe for a number of shares up to the equivalent of their 12-month average energy usage (for the average residential customer this would be around 1,000 kWh, or up to 8 shares). For billing purposes, the customer will be charged the subscription price and receive an offsetting adjustment equal to the market value of the solar resource's energy.

On June 25, 2024, parties (including CURB) filed a Settlement Agreement. The agreement added a provision regarding marketing and education for the program and additional protections against cost-shifting from participants to non-participants.

On September 24, 2024, the Commission approved the RE Program Tariff, as modified by the settlement agreement.

Update on Kansas Gas Service's and Black Hills' Acquisition of Southern Star Assets

KCC Docket Nos. 24-KGSG-237-CON and 24-BHCG-652-ACQ

Southern Star Central Gas Pipeline ("Southern Star") has been engaged in efforts to eliminate its ownership and operation of Domestic Meters (predominately farm tap and irrigation service). Southern Star has received FERC regulatory approval to "abandon by sale" Domestic Meter assets (facilities and customer accounts) located throughout Kansas.

KGS and Black Hills have each requested to separately acquire Domestic Meter assets from Southern Star, along with the associated certification to provide service. Southern Star has entered into agreements to sell 1,042 Domestic Meter assets to KGS and 273 Domestic Meter assets to Black Hills.

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A Unanimous Settlement Agreement was reached in the KGS docket. The agreement was approved by the Commission on July 16, 2024. Under the Agreement, the purchase price charged to KGS was significantly reduced. Post-acquisition, KGS will need to replace bare steel service lines for the acquired customers, a process which was estimated to cost around $3 million. As a condition of the Agreement, if KGS exceeds $4 million in replacement costs, KGS ratepayers will only be responsible for half of any excess amount.

Regarding Black Hills request, CURB is currently reviewing that proposal. A formal procedural schedule has not yet been established in the Black Hills docket.

Kansas Gas Service Proposes to Acquire the Gas System Owned and Operated by the City of Lebo, Kansas.

KCC Docket No. 24-KGSG-825-ACQ

On June 6, 2024, Kansas Gas Service ("KGS") filed an application with the Commission for approval of a proposed acquisition of the municipal natural gas public utility owned by the City of Lebo, Kansas ("Lebo") by KGS. Lebo is located in Coffey County in Northeast Kansas and is approximately 15 miles east of Emporia, Kansas. As of the 2020 census, the population of Lebo was 885. According to KGS's application, the Lebo natural gas public utility serves approximately 300 customers.

In order to acquire the Lebo natural gas public utility, KGS entered into an asset purchase agreement ("APA") with Lebo for $1,000,000.00. KGS asserts the purchase price is justified on the basis of its belief that the Lebo natural gas system has been very well maintained. Thus, KGS alleges that, "Immediate major improvements to the acquired distribution assets will not be necessary. There is no surcharge being requested as part of the application."

KGS will only include $912,530 of the $1,000,000 purchase price into its rate base to accord with the Commission's decision in Docket No. 08-ATMG-182-ACQ, which established a process to govern Atmos Energy's acquisition of certain municipal natural gas utilities located near its natural gas distribution system. In that docket, the Commission approved several terms for such acquisitions, including the following: the purchase price to be paid by the acquiring utility shall not exceed the average embedded cost per customer for meters, services and mains on an original cost basis; each municipal customer must be given notice to allow 30 days for them to file comments with the Commission concerning the acquisition; and the utility and the affected municipality shall organize an election to approve or disapprove the acquisition, as required by Kansas law and municipal ordinances. KGS alleges that the proposed acquisition meets the terms approved in Docket No. 08-ATMG-182-ACQ.

In these regards, a special election was held by Lebo pursuant to Kansas statutes whereby Lebo citizens could vote to approve or disapprove the acquisition of the Lebo natural gas public utility by KGS. Those citizens voted to approve the acquisition by a margin of 122 to 88. In addition, KGS sent a notice to Lebo citizens requesting that they submit any comments to the Commission by July 30, 2024. The KCC received no public comments on this matter. The public notice contained a comparison of the Lebo municipal utility rates to the rates

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which KGS proposes to charge the acquired customers after approval of the subject application and close of the APA. Notably, in accordance with the Commission's KGS Winter Storm Uri order, KGS will not impose a surcharge related to the recovery of fuel costs incurred by KGS during Winter Storm Uri since the Lebo natural gas public utility had paid its own fuel costs during that winter storm.

In its application, KGS alleges that its financial strength and managerial expertise in the gas retail distribution business assure that its acquisition of the Lebo natural gas public utility will be in the public interest. KGS is currently negotiating a franchise agreement with Lebo in connection with the KGS acquisition of the Lebo natural gas public utility. Beyond the physical assets being acquired by KGS, it will acquire various transportation capacity contracts and supply contracts which will be consolidated with KGS existing contracts at the first available opportunity.

CURB notes that there have been several Kansas public utilities under the Commission's jurisdiction who have requested to acquire natural gas systems that are outside of the Commission's jurisdiction. In such circumstances, the Commission requires that the acquisition meets the public interest. Accordingly, CURB has begun its investigation into KGS's application. CURB believes that this application will be determined by the Commission in the near future and CURB will be prepared to respond to the proposed application as justified by the facts in this case.

Evergy Requests Changes to its Parallel Generation Tariffs

KCC Docket Nos. 24-EKCE-744-TAR

In parallel generation, a customer-generator (a utility customer with a grid-connected renewable energy system, such as solar panels) has two electric meters installed on-site. One meter records electricity drawn from the grid and the other meter records electricity fed back onto the grid. The customer pays the retail rate for the electricity drawn from the grid and is compensated by the utility for the electricity fed back to the grid at a rate based upon the utility's avoided cost (the monthly system average cost of energy per kWh), potentially with a multiplier for smaller capacity generators.

On May 17, 2024, Evergy filed a request to make changes to its parallel generation tariffs for both Evergy Kansas Central ("EKC") and Evergy Kansas Metro ("EKM") service territories. The purpose of the request is to address larger behind-the-meter renewable installations and to standardize the terms applicable to renewable parallel generation.

Evergy is proposing to make the following changes regarding its parallel generation tariffs: (i) synchronize the EKC and EKM parallel generation tariffs for consistency; (ii) remove certain design capacity restrictions; (iii) incorporate a "good standing" requirement; (iv) include an obligation for the customer to provide any excess energy to the utility; (v) specify compensation levels for excess energy based on system size; (vi) provide for the assessment of a fee for utility analysis of applications; and (vii) specify the calculations that are used to determine whether a system is "appropriately sized."

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Notably, qualifying customer-generators may take service through either net metering or parallel generation tariffs. Net-metered customers are unaffected by Evergy's request in this docket.

CURB is currently reviewing Evergy's application. CURB has engaged in strategization with representatives of Sierra Club and Climate + Energy Project regarding Evergy's proposal.

There is no procedural schedule currently established in this docket. CURB anticipates KCC Staff will soon file a Report and Recommendation to which CURB will respond with its position. A Commission order on this matter is due by January 13, 2025.

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We're on the Web!

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ABOUT THE CITIZENS' UTILITY RATEPAYER BOARD

Established in 1988, the Citizens' Utility Ratepayer Board (CURB) is an agency focused on advocacy for residential and small commercial utility consumers in Kansas. The Board is composed of five (5) appointed volunteer members representing the four congressional districts in Kansas and one at-large member. CURB was initially founded by the Chairman of the Kansas Corporation Commission upon a perceived need for a stronger consumer advocate. CURB has evolved into an independent agency, currently employing a consumer counsel, two supporting attorneys, three analysts, and two administrative staff.

OUR MISSION: To zealously protect the interests of residential and small commercial utility ratepayers before the Kansas Corporation Commission and the Kansas legislature.

OUR VISION: To protect Kansas residential and small commercial utility ratepayers by promoting the delivery of optimal utility services—being safe, reliable and technically robust, environmentally sensible, cost-effective, and equitably provided to all Kansas utility consumers at just prices.

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