CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

April 2022

THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

UPDATE: Kansas Electric and Natural Gas Utilities Are Developing Financial Plans in Response to Record Natural Gas Prices Incurred During Winter Storm Uri

From February 7–19, 2021, Kansas and many other states throughout the Midwest experienced an unprecedented weather event with Winter Storm Uri (also referred to as the "Weather Event"). Prolonged stretches of cold temperatures, record-high natural gas prices, equipment failures, and demand for electricity led to historic wholesale electricity prices. In response to these weather conditions and supply constraints, Governor Laura Kelly issued a State of Disaster Emergency Declaration on February 14, 2021.

The Kansas Corporation Commission ("KCC" or "Commission") issued an Emergency Order in Docket 21-GIMX-303-MIS directing jurisdictional utilities to do all things necessary and possible to ensure natural gas and electricity service continued to be provided to their customers. The Commission has opened dockets for each utility as follows:

KCC Docket(s)	Service	Utility
21-GIMX-303-MIS	Electric & Gas	All jurisdictional
21-EKME-239-GIE	Electric	Evergy KS Central & Evergy KS Metro
21-EPDE-330-GIE	Electric	Empire
21-SPEE-331-GIE	Electric	Southern Pioneer
21-AEGG-335-GIG	Gas	American Energies
21-ATMG-333-GIG	Gas	Atmos Energy
21-BHCG-334-GIG	Gas	Black Hills
21-KGSG-332-GIG & 22-KGSG-466-TAR	Gas	Kansas Gas Service

CURB has intervened in each of the above dockets and is reviewing filings and supplemental data as such becomes available.

In regards to concerns over the pricing of natural gas during this event, the Office of the Attorney General of Kansas ("AG's Office") has been granted intervention in these dockets. The AG's Office is investigating all aspects of the Kansas natural gas system to determine whether the extreme costs incurred dur-

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MAJOR CASES WE ARE CURRENTLY FOLLOWING:

- **Winter Storm Uri Dockets**
- **19-KCPE-096-CPL** Evergy – Integrated Resource Plan and Capital Plan
- **21-EPDE-444-RTS** Empire – Abbreviated Rate Case
- **22-EKME-254-TAR** Evergy – Energy Efficiency Programs
- **22-NETE-419-COC** NextEra Transmission Facilities

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ing the Winter Event were the result of profiteering from a disaster, including other deceptive and unconscionable conduct in violation of the Kansas Consumer Protection Act. The Federal Energy Regulatory Committee ("FERC") is also investigating these issues. Proposed plans from Kansas utilities have included provisions for any relief resulting from these federal or state investigations to be distributed to utility customers.

Furthermore, after the financial plans have been finalized, there are plans to delve into Company-specific lessons learned with the opportunity to recommend improvements in each of the above dockets.

Some of the utilities' financial plans have been approved, while others are still in the process of review. Known financial plan details for each jurisdictional natural gas utility are described below:

ELECTRIC UTILITIES

Evergy filed its financial plans for its two Kansas jurisdictions on July 2, 2021, in Docket 21-EKME-239-GIE.

Evergy Kansas Central ("EKC") is requesting recovery of approximately $146.8 million of extraordinary event costs over 24 months beginning April 2022. This amount would accrue at a carrying charge of 8.32% which is equal to the Company's weighted average cost of capital ("WACC"). EKC estimates each customer's share of these costs to be $4.69 per month and will recover these costs through its Retail Energy Cost Adjustment.

Evergy Kansas Metro ("EKM") incurred $47.5 million of extraordinary event costs which they net against off-system sales of $82.2 million resulting in a regulatory liability of $44.6 million. After netting all costs, EKM will return $43.9 million to customers reducing the average residential customer bill by approximately $9.70 per month for twelve months.

On January 21, 2022, Kansas Corporation Commission Staff ("Staff") filed its Report and Recommendation ("R&R") in which they recommended approval of both EKC's and EKM's cost recovery plans with several exceptions. Staff recommends that Evergy should lower the rate at which carrying costs accumulate on the balance of Winter Storm Uri costs from the WACC to a number that balances the interests of both shareholders and customers. Secondly, Staff stated that the revenue gained from EKM's off-system sales should be distributed to customers over the same two year period that EKC is collecting its incurred extraordinary costs, thereby lowering the overall financial impact to Evergy of carrying these balances. This would provide an equitable approach for the customers of both operating utilities. Staff posits that after resettlement charges from Southwest Power Pool, Evergy's plan will result in approximately $3.10 per month to be collected from Evergy Kansas Central ratepayers.

On January 31, 2022, CURB filed its Response to Staff's R&R. CURB supports the recommendations set forth in Staff's recommendations but has several concerns. CURB believes the evidence shows Evergy acted responsibly in responding to Winter Storm Uri. CURB would like to discuss with Evergy the length of time for recovery and carrying charges on those amounts. Evergy should lower the carrying cost accumulating on the balance of winter storm costs from the WACC to a carrying cost that balances the interests of both shareholders and customers. CURB believes Evergy should work with all parties to inform their customers about the ef-

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forts Evergy successfully undertook to maintain service throughout its service territories and inform their customers that these charges will soon appear on their monthly invoices. This strategy will enable customers to adjust their budgets to accommodate the increased costs. CURB suggests that Evergy and CURB work together towards legislative authorization for low-income assistance tariffs in Kansas.

The financial plans for EKC and EKM are still being reviewed and negotiated. An evidentiary hearing on this matter is scheduled for May 2022.

Empire has not yet filed its plan for recovery of its extraordinary event costs.

Southern Pioneer filed a plan on March 10, 2021, requesting recovery of approximately $17 million of estimated extraordinary event costs over 36 months. $400,000 of those extraordinary costs cannot be attributed to individual customers and will instead be recovered through the Energy Cost Adjustment ("ECA"). Each customer's share of the costs will be computed based on their individual kWh usage during the month of February 2021. Carrying charges would accrue at a rate of 2.889% applied to each customer's individual balance. A residential customer will experience an average increase of approximately $7.89/month for 36 months. Under the plan, customers will have the option of paying off their share of the extraordinary costs as a one-time payment, without accelerating the accrual of carrying charges through the remainder of the repayment period. New customers to Southern Pioneer and customers who did not record any electricity usage during February 2021 will not be assessed a share of the costs under the plan.

On February 9, 2022, the parties filed a Joint Motion for a Final Order. One notable change is Southern Pioneer agreed to reduce the carrying charge to 2.14%. On March 17, 2022, the Commission approved Southern Pioneer's plan, as modified in the Joint Motion.

NATURAL GAS UTILITIES

American Energies ("AEGS") is a very small jurisdictional natural gas utility, serving only 200 customers in Kansas. AEGS filed its plan as part of a settlement with KCC Staff and CURB on June 18, 2021. On July 8, 2021, the Commission approved the settlement agreement. AEGS is authorized to recover up to $317,913.82, inclusive of carrying charges. Each customer's share of the costs is computed based on their kWh usage during the month of February 2021 and will be charged monthly over a period of up to 60 months, with early repayment optional.

Atmos submitted a plan on September 14, 2021, requesting recovery of its extraordinary gas costs of approx. $109.8 million through a securitized bond issuance. Atmos is requesting flexibility to securitize these costs over a time period of 10–15 years. Atmos estimated that a 10-year bond issuance would result in a fixed monthly charge of approx. $5.56 for residential customers (10% total bill increase), while a 15-year issuance would result in approx. $4.00 fixed monthly charge (7% total bill increase).

On February 9, 2022, a unanimous settlement agreement was filed regarding Atmos's financial plan. In the agreement, most notably, the overall extraordinary costs decreased to approx. $102.5 million and the carrying charge was reduced from WACC to 2.0% until the securitized bonds are issued. Furthermore, the Company agreed to participate in discussions regarding the viability of low income program offerings for customers

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in its Kansas territory. CURB presented pre-written and live testimony in support of the agreement.

The Commission approved the agreement on March 24, 2022. The terms of securitization (including time period of repayment and, therefore, bill impact) will be determined in an upcoming docket for the securitization financing order.

Black Hills submitted a plan on June 16, 2021, requesting recovery of approx. $87.9 million in extraordinary event costs over 60 months. Under Black Hills' initial proposal, the extraordinary gas costs and associated carrying costs would be allocated among rate schedules based on February 2021 usage. Black Hills' initial proposal would have resulted in an average monthly bill increase of $12.23 for a residential customer with average usage over a period of five years.

On November 9, 2021, a unanimous settlement agreement was filed which, most notably, reduced carrying charges from WACC to 1.30% through the end of December 31, 2021, then to 5.71% for the remainder of five-year recovery period. The settlement agreement will result in a bill impact of approx. $11.47/mo. over five years for a residential customer with average usage. CURB presented pre-written and live testimony in support of the agreement. The agreement was approved by the Commission on January 27, 2022.

Kansas Gas Service ("KGS") filed its plan to securitize approx. $451.7 million of extraordinary event costs on July 30, 2021. KGS has formulated a fixed charge by class, allocated based upon each class's percentage of total February sales volumes. KGS requested flexibility to determine whether to securitize over a time period of five, seven, or ten years with initial anticipated monthly bill impacts ranging from approx. $11.00 (over five years) to $5.10 (over ten years).

KGS Financial Plan

On November, 19, 2021, a unanimous settlement agreement was filed regarding the KGS financial plan. The agreement, most notably, reduced the carrying charge from WACC to 2.0% until the securitized bonds are issued. Furthermore, the Company agreed to file a tariff to assist low income customers in its service territory by year-end 2022. CURB presented pre-written and live testimony in support of the agreement.

The agreement was approved by the Commission on February 8, 2022. The terms of securitization (including time period of repayment and, therefore, bill impact) will be determined in Docket 22-KGSG-466-TAR. That docket is the repository for KGS's Application for a securitization financing order, which was filed on March 31, 2022. Presently, the Company expects to issue Securitized Utility Tariff Bonds in February 2023. Based on available data, the Company's preference is to utilize a ten-year schedule recovery period.

KGS Marketer and Transport Customer Penalties

Concurrently with the financial plan procedure, KGS filed a motion on May 28, 2021, requesting a waiver in order to deviate from tariffed penalties for third-party gas marketers and transport customers who under-delivered or over-delivered gas to KGS during the event. Any collected penalties would be credited to the Cost of Gas Rider, thereby reducing the net extraordinary event costs for all sales customers. Several marketers intervened in this docket.

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A non-unanimous agreement was first filed between KGS, CURB, KCC Staff, and several marketers and transport customers on October 8, 2021. The non-unanimous agreement proposed a net value of extraordinary costs of approx. $83 million. CURB presented pre-written testimony in support of that agreement.

The initial non-unanimous agreement was later replaced with a unanimous agreement, filed on January 20, 2022. CURB took a neutral position on this agreement, meaning that CURB was not a signatory, but also not opposed. The net value of extraordinary costs presented in the unanimous settlement was approx. $52.4 million. Those extraordinary costs will be collected through a Negotiated Gas Penalty charge. As part of the unanimous agreement, Symmetry (a gas marketer) has agreed to pay a reduced penalty of $26 million with guarantees of repayment by its parent company. The unanimous agreement was primarily reached to guarantee some payment for the incurred gas costs. CURB is concerned that the agreement sends the wrong pricing signals to transport customers, as the Negotiated Gas Penalty is below the market value those customers would likely have paid if they had purchased the gas for themselves and is also below the price KGS paid for gas on the spot market. However, there could have been severe detriments to sales customers if certain parties refused to pay their penalties under the prior agreement or there was further delay of the recovery plan. Thus, CURB took a neutral position in response to the unanimous agreement.

The unanimous agreement was approved by the Commission on February 8, 2022. CURB was pleased that the Commission noted its decision “should not be viewed as precedential,” and, “if confronted with an OFO and high gas prices in the future, it should not be assumed that the Commission will waive penalties again.”

UPDATE: Empire’s Abbreviated Rate Case

KCC Docket No. 21-EPDE-444-RTS

On May 28, 2021, Empire District Electric Company filed an Abbreviated Rate Case which was then docketed as 21-EPDE-444-RTS.

Empire received permission from the Commission in the 19-EPDE-223-RTS Docket to make an "abbreviated filing." In an Order dated June 23, 2020, the Commission granted Empire's request to file an abbreviated rate case. The Commission stated, “The abbreviated rate case is limited to capturing the revenue requirement impact (rate base and income statement) directly relating to: (1) the retirement of Asbury; (2) the acquisition of the Neosho Ridge, the North Fork Ridge, and the Kings Point wind farms [(the “Wind Projects”)]; and (3) the non-growth plant and related accumulated depreciation and accumulated deferred income tax balances as of the end of the test year ending June 30, 2020.”

Empire was requesting recovery of a gross revenue deficiency of $4,465,956 million. However, Empire stated that after adjustments for several items, their actual adjusted revenue deficiency is $723,000 and that this would amount to a rate increase for an average residential user of $4.97 per month.

On September 15, 2021, Empire updated its filing to reflect updated costs for the Wind Projects. As a

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result of this update, the Company was then seeking a base revenue increase of $4,490,806, partially offset by incremental net wind revenues of $2,728,907. Given the Asbury refund of $924,952, Empire is now projecting an annual retail net revenue increase of $836,947 (4.95%) or a $5.09 monthly increase (4.58%) for the average residential customer.

Following extensive negotiations the parties reached a Partial Unanimous Settlement in the docket on March 2, 2022.

The Settlement resolves two of the three issues in the docket. These being the retirement the Asbury Coal Plant and the non-growth plant and related accumulated depreciation and accumulated deferred income tax balances as of the end of the test year ending June 30, 2020.

The settlement is that the Asbury regulatory liability amount related to the retirement of Asbury on March 1, 2020, shall be netted against the Company's Asbury regulatory asset so that the net Asbury regulatory asset shall be $3,340,140 ("Asbury Regulatory Asset"). Empire shall be allowed to recover through amortization the Asbury Regulatory Asset over 10 years beginning on the date in which rates set in this case become effective. Empire's request to implement an Asbury Retirement Rider is no longer necessary because that regulatory liability has been netted against the regulatory asset.

Resolution of the Asbury Regulatory Asset and the revenue requirement directly related to the non-growth plant and related accumulated depreciation and deferred income tax balances as of the end of the test year ending June 30, 2020, results in a decrease in Empire's revenue requirement of $636,091.00.

Empire shall be allowed to establish a regulatory asset to capture Asbury decommissioning expenses and costs and Empire shall be allowed to seek recovery of that regulatory asset in its first rate case following completion of decommissioning of Asbury

Unfortunately, parties were unable to come to a resolution regarding the acquisition of the Wind Projects. For this issue, an Evidentiary Hearing was held by the Commission on March 8-9, 2022. CURB's argument is that the Wind Projects were not needed to serve Kansas ratepayers and therefore should not be included in rates. However, if the Commission determines that they should, CURB recommends a non-traditional methodology for recovery at a rate substantially lower than that proposed by Empire. A final Order on this issue is due May 27, 2022.

Evergy's Annual Cost Adjustment Filings for KS Central and KS Metro

KCC Docket Nos. 22-EKCE-447-ACA (KS Central) & 22-EKME-423-ACA (KS Metro)

Evergy Kansas Central

On March 18, 2022, in Docket No. 22-EKCE-447-ACA, Evergy Kansas Central ("EKC") filed its Annual Cost Adjustment ("ACA") filing to true-up the costs recovered from ratepayers through its Retail Energy Cost Adjustment ("RECA") tariff to the fuel and purchased-power costs actually incurred to provide service for 2021. This process authorizes Evergy to adjust the RECA surcharge on bills by updating the ACA factor that is

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calculated with kWh used each month. EKC has indicated that it experienced an under-recovery of these generation costs in the amount of approximately $171 million. Evergy cites to significantly higher-than-estimated wholesale power and natural gas prices during part of the year and lost revenue associated with an expiring power sales contract. These conditions resulted in approximately $116 million more in under-recovered costs than anticipated. As such, the 2022 ACA factor to collect this deficit would be $0.008815/kWh. EKC residential ratepayers are estimated to see an average bill increase of approximately $5.38 per month effective April 2022 through March 2023.

Evergy initially asked the Commission for authorization to collect the total ACA amount for EKC in two separate phases, in conjunction with the Company's financial plan to recover extraordinary Winter Storm Uri costs in Docket No. 21-EKME-329-GIE ("21-329"). In that request, Evergy proposed to split the total 2021 ACA under-recovered amount by collecting $120 million through the typical RECA mechanisms from April 2022 through March 2023. The remaining $51 million would be placed into a regulatory asset to later recover at the same time as the Winter Storm Uri costs are being collected in order to develop a smaller bill impact per month, yet a longer recovery period for ratepayers related to service from 2021. Evergy proposed that the regulatory asset would accrue interest at Evergy's weighted average cost of capital (8.32%) from the date of the asset's creation until fully collected from ratepayers. During the month of March 2022, CURB met with Evergy and KCC Staff to discuss the Winter Storm financial plan and the Company's ACA proposal. The parties ultimately reached an agreement where Evergy would withdraw its proposed plan to split the ACA under-recovery and to allow the total 2021 ACA factor to go into effect April 2022. The Winter Storm costs will remain unaffected by this ACA filing while parties continue to work through the 21-329 docket.

Evergy Kansas Metro

Evergy Kansas Metro ("EKM") filed its ACA true-up for 2021 on March 3, 2022, in Docket No. 22-EKME-423-ACA. EKM reported an under-recovery of fuel and purchased-power costs in the amount of $15.4 million. EKM also cites to higher-than-projected fuel costs as the cause of this under-recovery. The ACA factor for EKM for April 2022 through March 2023 will be $0.0024/kWh, representing a $0.0001 increase from last year.

Evergy Proposes Energy Efficiency Portfolio

KCC Docket No. 22-EKME-254-TAR

On December 17, 2021, Evergy Kansas Metro, Inc. ("EKM") and Evergy Kansas Central, Inc. ("EKC"), (together, Evergy) filed an application seeking approval of their demand side management ("DSM") portfolio and updated energy efficiency riders pursuant to the Kansas Energy Efficiency Investment Act ("KEEIA"). This application has been assigned Docket No. 22-EKME-254-TAR. CURB, along with several other parties, have been granted the right to intervene in this docket.

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In its application, Evergy proposes a four-year portfolio of nine energy efficiency programs for the EKM and EKC service territories. The portfolio includes four residential programs: Whole Home Efficiency Program, Home Energy Education Program, Home Demand Response Program and Hard-to-Reach Homes Program. It also includes four business programs: Whole Business Efficiency Program, Home Business Education Program, Business Demand Response Program and Hard-to-Reach Businesses Program. Finally, the portfolio includes a Pilot Incubator Program (for both residential and business customers). Throughout the various programs in its DSM portfolio, Evergy proposes a number of incentives, outreach, and education, designed to garner significant participation and bring about energy and demand reduction. However, the focus of each program differs.

The next few paragraphs contain a brief overview of these nine energy efficiency programs. The reader can review Evergy's application, including a detailed explanation of each of the nine energy efficiency programs at: https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202112171559495228.pdf?Id=69506e27-27c0-430c-ac57-3d590100c6d3.

The Whole Home Efficiency Program focuses on energy efficiency installations in single-family and multi-family residences. The Home Energy Education Program uses education, marketing and outreach to help customers understand where energy is being used the most in their homes and to recommend tips and low-cost ways to reduce energy use and save money. The Home Demand Response Program focuses on helping customers better manage their energy use in the home to reduce the impact on the utility grid during peak demand. The Hard-to-Reach Homes Program targets income-eligible and rural customers through free or enhance rebates for energy efficiency home comfort and home products.

The Whole Business Efficiency Program provides incentives to business customers who install energy efficient equipment. The Home Business Education Program uses tools, resources, and guidance to allow business customers to understand where they use energy and when they can save energy and money. Evergy will use its Business Demand Response Program to provide business customers an opportunity to participate in crucial winter and summer demand events and thereby earn financial incentives. The Hard-to-Reach Businesses Program focuses on small businesses and non-profit enterprises, providing them with enhanced rebates and specially-designed additional initiatives.

Finally, Evergy states that its Pilot Incubator Program creates a pathway for generating energy efficiency ideas, creating an opportunity for identifying additional energy efficiency programs or program improvements, and testing new concepts for both residential and business customers. Evergy has worked with several stakeholders in designing its DSM portfolio. Evergy states it has relied on industry best practices in framing the portfolio.

In order to fund these programs, Evergy proposes to update its energy efficiency riders to recover a total of approximately $182 million from EKC customers and a total of approximately $65.5 million from EKM customers over the four-year DSM portfolio. These recovery amounts consist of three components: program costs, which includes the costs of incentives, administration, and EM&V (evaluation, measurement and verification of the costs and energy efficiency savings caused by its DSM programs); the recovery of lost electricity sales

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caused by Evergy's DSM programs; and an earnings opportunity, which recognizes the opportunity costs to Evergy of substituting DSM programs for supply-side alternatives.

The rate impact upon ratepayers over the four-year recovery period for the portfolio will approximate an average increase of 1.25% for residential ratepayers and 1.24% for business ratepayers. However, Evergy states that its portfolio will result in energy savings on a net present value basis of $28 million for EKC customers and $14 million for EKM customers over the life of the energy efficiency measures. Thus, Evergy states that while Evergy customers will experience an additional rate increase during the cost recovery period, the DSM portfolio results in a net bill reduction overall.

Indeed, Evergy suggests that its DSM portfolio is cost-effective, meaning that the benefits enjoyed by the Evergy customer are greater than the costs the ratepayers will pay for the portfolio. In Kansas, as in other States, the cost-effectiveness of energy efficiency programs are determined by one or more tests: the Total Resource Cost Test ("TRC"), the Ratepayer Impact Measure Test, the Participant Cost Test, the Program Administrator (or Utility) Cost Test, and/or the Societal Cost Test. The KCC considers the TRC to be the primary test to determine the cost-effectiveness of energy efficiency programs. The TRC presents the ratio of energy resource savings to the total of utility costs and customer costs, with a ratio higher than 1.0 indicating that an energy efficiency program is cost-effective. Evergy posits that its DSM portfolio has a TRC ratio that is greater than 2.0.

CURB is aware that the American Council for an Energy Efficient Economy ranks Kansas very low among U.S. states in regard to energy efficiency programs. More importantly, cost-effective energy efficiency can result in least-cost resources, resulting in energy savings for consumers. Furthermore, energy efficiency can provide to consumers — particularly low-income consumers — an opportunity to reduce their energy bills through highly efficient appliances and weatherization techniques and materials.

Yet, it is imperative that utility-sponsored energy efficiency programs be cost-effective, result in reasonable rates, and be equitable in accessibility and benefit/cost distribution. Moreover, CURB is aware of a number of industry best practices that the Commission should consider in determining whether to approve Evergy's DSM portfolio as filed. CURB is evaluating the application in all of these regards.

CURB intends to be very involved in this docket and has retained a consultant to help present its views. At present, there is a public hearing set for this docket on June 27, 2022, via ZOOM. From August 9 through August 11, 2022, the Commission will hear the technical evidence regarding the application.

CURB commends Evergy for filing its DSM application. Generally, many Kansas consumers want to see energy efficiency programs offered in earnest. While CURB does not know how the Commission will treat this application, it is at least up for discussion and consideration. CURB appreciates hearing from any ratepayer who wants to discuss energy efficiency.

2022 Legislative Update

Several bills were introduced in either the House Energy, Utilities, and Telecommunications Committee or the Senate Utilities Commission of the Kansas Legislature in this 2022 Session. However, these Committees did not take any action on most of these bills. Nonetheless, CURB spent a substantial amount of time analyzing all bills that pertained to utility rates and practices and presented testimony on those with direct impact.

House Concurrent Resolution ("HCR") 5023

HCR 5023 made a significant statement which CURB supported through written and oral testimony. In HCR 5023, the Kansas Legislature denounced price gouging and market manipulation in the natural gas marketplace, if it occurred, and supported investigations into the extraordinary price increases of wholesale natural gas during the extreme cold weather event of February 2021. CURB presented its oral testimony in favor of HCR 5023 before the House Energy, Utilities and Telecommunications Committee on January 27, 2022. In its testimony, CURB noted that natural gas pricing is generally a complicated process and it was made more complex by supply disruptions caused by Winter Storm Uri. CURB stated it is a daunting task to sort through these complexities in the investigations. Any relief owed to Kansas utility customers due to the work of the AG's Office and FERC may require a substantial amount of time and effort to collect and appropriately distribute. HCR 5023 passed the Kansas House of Representatives on Wednesday, February 9, 2022, by a vote of 114-2. The Senate Utilities committee heard HCR 5023 on March 8, 2022, wherein CURB filed written testimony. The Senate Utilities Committee favorably passed out HCR 5023 on March 14, 2022.

Senate Bill ("SB") 349

CURB also presented oral and written testimony before the Senate Utilities Committee regarding SB 349. That bill proposed to prevent the KCC from approving retail rate increase, including rate increases for transportation delivery charges ("TDCs"), that result in an annual increase of greater than 1% when compared to the preceding calendar year's total retail rates or an average of 1% per year if a utility has not filed for an increase in two or more years, subject to certain exceptions. Those exceptions are when increases are needed to protect service reliability or the utility's credit rating. Moreover, the provisions of this bill would expire in mid-2032, allowing any affected utility to be able to request a rate increase to account for any deferred amounts not approved for recovery under this bill.

On February 15, 2022, Senate Utilities held a hearing on SB 349. CURB filed neutral testimony in this bill. While CURB commended the authors of the bill in attempting to address high electric utility rates, CURB believed that this bill would not be effective. CURB noted TDCs are approved by the FERC and summarily reviewed by the KCC under K.S.A. 66-1237. Evergy files annual updates to its TDC rates based on FERC calculations and other factors to true-up the charge. CURB questioned whether deferral of those expenses could be accomplished without interfering with matters under exclusive federal jurisdiction. Thus, CURB conjectured that SB 349 could lead to unnecessary and costly litigation, at a cost to ratepayers, regarding potential legal issues with the bill. Second, SB 349 could result in rate shock and additional costs for consumers because the bill calls for deferral of unrecovered costs, looking back for up to ten years. Moreover, the long deferral period could lead to intergenerational inequity where costs caused by customers in 2022 but not collected until much later

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would result in customers paying for utility costs incurred during a time when they were not a customer. The Senate Utilities Committee has not taken any further action on the bill.

SB 417

Finally, CURB testified before House Energy, Utilities and Telecommunications Committee regarding SB 417. The ultimate question that CURB discussed was the cost of allowing the Kansas Department of Health and Environment to administer the Coal Combustion Residual ("CCR") regulations in Kansas instead of the federal Environmental Protection Agency. The bill was first introduced in Senate Public Health and Welfare, then withdrawn and referred to Agriculture and Natural Resources. This committee will hold a hearing on this bill on March 10, 2022. CURB, at the request of Senator Francisco, reviewed the bill including its fiscal impact and had sent a memorandum to Senator Kerschen, Chairperson of the Committee on Agriculture and Natural Resources. In that memo, CURB agreed that local administration of CCR is preferable to federal administration and that the bill has miniscule impact upon ratepayers. The bill passed the Senate on February 23, 2022, on a vote of 39 to 1. The bill was referred to the House Committee on Agriculture, then referred to the Committee on Energy, Utilities and Telecommunications. CURB sent a similar memo to the House Energy, Utilities and Telecommunications Committee. SB 417 has passed both the Senate and House and was signed by Governor Kelly on April 1, 2022.

In addition to the bills detailed above, CURB analyzed a number of other bills in which no action was taken by the pertinent legislative committee. CURB did not present either written or oral testimony on those bills.

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About the Citizens' Utility Ratepayer Board (CURB)

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, two 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.