CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

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THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

Evergy Files Application to Replace Coal Generation with Solar

Docket No. 22-EKCE-141-PRE

On September 20, 2021, Evergy Kansas Central and Evergy Kansas South (together, "Evergy") filed an important application with the Kansas Corporation Commission (KCC or "Commission"). The application (in Docket No. 22-EKCE-141-PRE) seeks a determination of the ratemaking principles and treatment that will apply to the recovery in rates of the costs that Evergy will incur in the purchase of solar generation facilities and the retirement of the coal-fired facilities and Unit 4 at the Lawrence Energy Center. The Commission will determine the application filed in Docket No. 22-EKCE-141-PRE ("22-141 Application") pursuant to K.S.A. 66-1239 as it was amended by the Kansas legislature during this last legislative session by enactment of Substitute for House Bill 2072. It is important to note, on October 26, 2021, Evergy requested a suspension of the procedural schedule to allow more time for the Company to develop additional information for the evaluation of its filing.

The 22-141 Application seeks a KCC order that predetermines that Evergy's abandonment of its coal generation plant at Unit 4 and the conversion of Unit 5 to gas-powered electric generation, all located at the Lawrence Energy Center (in Lawrence, Kansas) is prudent. In addition, the application seeks a KCC order that predetermines that the acquisition of 190 MW of solar generation is also prudent. Both of these aspects of the 22-141 Application are consistent with Evergy's Integrated Resource Plan ("IRP") as filed with the Commission in Docket 19-KCPE-096-CPL ("Docket 19-096"). CURB has intervened in Docket No. 19-096, has reviewed Evergy's IRP and intends to file comments regarding the IRP, including the retirement of plants and acquisition of renewable energy, by early November. K.S.A. 66-1239 allows these matters to be predetermined by the KCC.

As it was amended by the Kansas legislature, K.S.A. 66-1239 provides that prior to the undertaking of certain types of regulatory matters, a Kansas utility may file an application with the KCC seeking determination of the ratemaking principles and treatment proposed by the public utility in respect to

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those regulatory matters. Under the statute, a Kansas utility may file an application with the KCC pertaining to the construction of a generating facility or abandonment of a generating facility, among other matters. Essentially, K.S.A. 66-1239 contemplates that the KCC can predetermine the prudence of the construction of a generating facility or, retirement or abandonment of a generating facility proposed by the Kansas utility before the event occurs.

An application under K.S.A. 66-1239 calls for a different manner of determination of the treatment of generation investments and abandonments than is ordinarily accomplished by KCC regulation. Ordinarily, a Kansas utility invests in a generation plant or abandons a plant and then seeks rate-making treatment by the Commission through a rate case application. Obviously, there is some risk associated with the capital investment and expenses through the utility seeking rate-making treatment after the investment and expenses are incurred: The Commission has discretion to determine that the public interest requires that some amount of the investments and expenses not be charged to ratepayers, leaving those to be absorbed by the utility. K.S.A. 66-1239 lowers that risk since it allows the rate-making principles to be determined prior to the investment by the utility, but it also allows stakeholders to weigh in on those proposed rate-making principles early on. In CURB's view, K.S.A. 66-1239 is beneficial for the types of regulatory matters set forth in the statute, including those encompassed in the 22-141 Application.

Another important change in KCC regulation of utilities brought about by Substitute for House Bill 2072 is that the KCC may now approve of the securitization of the costs associated with the abandonment of generation plants, among other events. Substitute for House Bill 2072 authorizes the securitization of these costs to occur through the issuance of ratepayer-backed bonds. Ratepayers pay these bonds but realize substantially lower financing costs than traditional financing of the abandonment of a generation plant or other regulatory matter permitted by Substitute for House Bill 2072. This occurs under the weighted average cost of capital associated with the utility (which includes a high cost of debt and the utility's cost of equity). Securitization is a valuable regulatory tool, but it requires great care by the Commission and stakeholders to ensure that it is used properly to promote the public interest.

Under the 22-141 Application, Evergy will eventually seek to securitize the costs associated with the abandonment of Unit 4 and conversion of Unit 5 of the Lawrence Energy Center. Evergy estimates that these events will save the ratepayer $40 million in non-fuel operation/maintenance costs and an additional $5 million in net fuel costs. Evergy estimates the cost to ratepayers of the acquisition of the solar facility and securitization to be $39 million. Thus, if the Commission approves the application as proposed, ratepayers will net $6 million in rate savings, according to Evergy. CURB has intervened in this docket and is evaluating the application and claims made therein.

CURB believes that the 22-141 Application is very important, not only as to potential savings that may occur through the replacement of coal-generation by solar generation, but also with respect to the securitization of the regulatory treatment of Unit 4 and Unit 5 of the Lawrence Energy Center. CURB will keep its ratepayers updated on the 22-141 Application as it proceeds through KCC determination. This article attempts only to provide a thumbnail sketch of the application and the pertinent regulatory rules and practices that the application will undergo.

UPDATE: Evergy's Transportation Electrification Portfolio

Docket No. 21-EKME-320-TAR

This docket involves Evergy's request to the KCC for approval of several rebates and Time-of-Use (TOU) rates, as well as a request to implement expansion of its Clean Charge Network (CCN). The requested CCN expansion, rebates, and rates all pertain to charging of electric vehicles (EVs).

A number of the parties in the docket have come to a Non-unanimous Partial Settlement resolving several of the issues in the docket:

- The Settlement Agreement provides for rebates to be offered, under the Residential Rebate Program, to customers who install a 240v outlet in a home. The rebates are valued at either $500 or $250, depending upon the rate schedule selected by the customer, with the higher rebate for customers that select an EV or TOU rate.
- The Settlement Agreement, if approved, authorizes the Company to spend up to $10 million on the Commercial Rebate Program. $1.6 million of this amount will be targeted to underserved areas.
- Depending on the initial results of the Commercial Rebate program, the Settlement provides for the program's budget to be increased to $15.4 million through an expedited process at the request of Evergy, with the concurrence of KCC Staff and CURB. The parameters that will be considered when evaluating whether to support an increase in the Commercial Rebate Program budget, include a) the number of EVs in each territory and the number of public chargers that are available, b) the number of public charging ports that have become available without the assistance of the rebate program, and c) the extent to which actual experience tracks with the Electric Power Research Institute's ("EPRI") current medium run projections for EVs.
- The Settlement includes a budget for Customer Education and Program Administration of $2.3 million. Internal labor costs will not be included in the deferred asset related to Customer Education and Program Administration costs.
- At CURB's request, the Residential Developer Rebate was rejected as part of the Settlement.
- The Settlement provides for approval of the Transit Fleet and Business EV TOU rates, as proposed by Evergy.

The Settlement has been submitted to the Commission and we await a final determination.

The main issue with which the parties were not able to come to an agreement was Evergy's request for approval of an expansion of its CCN program. This is a $13.5 million request to install 102 new charging stations across its Kansas service territories. CURB and KCC Staff opposed Evergy's request for CCN expansion. CURB's primary reason for opposing expansion of the CCN is the belief that a monopolistic utility should not be allowed to operate in the public EV charging market and require ratepayers, many of whom may not even own an EV, to pay for those investments. A full Evidentiary Hearing was conducted on September 20–21, focused primarily on this issue. All parties presented witnesses and evidence to the Commission.

Following the Evidentiary Hearing, parties were allowed to file briefs regarding their positions. CURB filed its Response Brief on October 22 and all parties await the Commission Order that is due December 6, 2021.

UPDATE: Kansas 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 Winter Storm Uri. Because of the prolonged stretch of cold temperatures: record natural gas prices, equipment failures, and demand for electricity led to record wholesale electricity prices. In response to these weather conditions and supply constraints, Governor Kelly issued a State of Disaster Emergency Declaration on February 14, 2021.

The KCC 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 specific dockets for each utility as follows:

Docket	Service	Utility
21-EKME-329-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	Gas	Kansas Gas Service

CURB has intervened in each of the above dockets and is reviewing filings and supplemental data as such becomes available. Known plan details, by utility, are described below:

Evergy Kansas Central ("EKC") filed its plan on April 1, 2021, requesting recovery of approximately $146.8 million of extraordinary event costs over 24 months beginning April 2022. This amount will accrue at a carrying charge of 8.32% which is equal to the Company's weighted average cost of capital. 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.

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. Each customer's share of the costs will be computed based on their kWh usage during the month of February 2021.

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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 granted the settlement agreement. AEGS is authorized to recover up to $317,913.82, inclusive of carrying charges. Each customer's share of the costs was 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 approximately $109.8 million through a securitized bond issuance. Atmos is requesting flexibility to securitize these costs over a time period of 10–15 years. Under current calculations, a 10-year bond issuance would result in a fixed monthly charge of approximately $5.56 for residential customers (10% total bill increase), while a 15-year issuance would result in a $4.00 fixed monthly charge (7% total bill increase). Settlement discussions are tentatively set to begin January 2022.

Black Hills filed a plan on June 16, 2021, requesting recovery of approximately $87.9 million in extraordinary event costs over 60 months. Under Black Hills' Plan, the extraordinary gas costs and associated carrying costs would be allocated among rate schedules based on February 2021 usage. This would result in an average monthly bill increase of $12.23 for a residential customer with average usage over a period of five years. Settlement discussions are set to begin at the end of October 2021.

Kansas Gas Service (KGS) filed its plan to securitize approximately $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 expects the securitized bonds to be issued by January 31, 2023. KGS is requesting flexibility to determine whether to securitize over a time period of five, seven, or ten years with varying bill impacts. Under current calculations, residential customers would be billed a monthly fixed charge of approximately: $11.00 under the five-year option, $8.14 under the seven-year option, or $5.10 under the ten-year option. Settlement discussions are tentatively set to begin early November 2021.

Concurrently, KGS filed a motion on May 28, 2021, requesting a waiver to deviate from (i.e., reduce) tariffed penalties for third-party gas marketers and transport customers who under- or over-delivered gas during the event. Any collected penalties would be credited to the Cost of Gas Rider, thereby affecting the net extraordinary event costs for all customers. Several marketers have intervened in this docket. A non-unanimous settlement agreement was filed between KGS, CURB, KCC Staff, and some marketers and transport customers on October 8, 2021. In essence, the signatories to the settlement have agreed KGS's net extraordinary cost of serving marketers and transport customers during Winter Storm Uri was approximately $83 million and, if the settlement is approved, those extraordinary costs would be collected through a Negotiated Gas Penalty charge. The agreement is opposed by certain marketers and transport customers. An Evidentiary Hearing is tentatively scheduled for mid-November 2021.

UPDATE: In Black Hills Rate Case, Settlement Proposed with No Net Base Rate Increase

Docket No. 21-BHCG-418-RTS

In Black Hills' first general rate case in over seven years, CURB, Black Hills, and KCC Staff have reached a unanimous settlement agreement. The signatory parties filed the formal agreement on October 8, 2021. The settlement terms resolve all outstanding issues in the docket and address the growing needs of the utility while ensuring that Kansans are only paying reasonable rates for natural gas services. Of the resolved issues, the agreement contemplates a net zero increase to base rates. This is achieved by netting out approximately $6.6 million dollars of Gas Safety and Reliability Surcharge (GSRS) revenues from a base rate increase of the same amount. This also resets the GSRS to $0, which will allow the Company to request recovery of costs for new projects dedicated to improving the quality and safety of its pipeline infrastructure. This result is in contrast to Black Hills' initial request of adding over $10 million to base rates and only offsetting that by $4.9 million in GSRS revenue.

The parties also agreed to implement a Tax Adjustment rider, as laid out in Black Hills' initial application, to account for excess deferred income taxes collected through rates as a result of the 2017 Tax Cuts and Jobs Act. The Commission requires utility companies affected by the change to income tax rates to refund unpaid excess income tax to all ratepayers in a reasonable manner. Black Hills will use the rider to refund approximately $9.1 million over the next three years after the new rates go into effect (approximately $3.03 million per year). Under the Agreement, Black Hills will be allowed to use this new rider to pass through or recover any future decreases or increases in its revenue requirement due to any future changes to state or federal tax laws. From its initial direct testimony, CURB was supportive of this proposal and is pleased to have reached an agreement on this issue. Coupled with the net zero increase to base rates, this results in a net decrease to rates for ratepayers for the next three years.

The impact of fixed Customer Charges on bills has also been mitigated by the Agreement. Black Hills had initially requested an increase of the Customer Charge from $16.94 (plus an additional $2.96 for the current GSRS rates) to $20.00 (including a GSRS rate of $0.00). Through testimony filed by Glenn Watkins, President of Technical Associates, Inc., CURB opposed this level of increase and instead recommended a new customer charge of $18.35. The parties settled on an increase of the Customer Charge to $18.50. This reflects a $0.00 GSRS rate going forward until Black Hills makes a showing of additional projects eligible for cost recovery under the mechanism in a future proceeding.

Finally, in regards to future GSRS calculations, the parties agreed to utilize a 7.78% pre-tax carrying charge for the carrying charges applied to recoverable costs of investments in projects eligible for GSRS recovery. This term is only for use in future GSRS filings and serves as an alternative to agreeing to a specific Return on Equity percentage and capital structure. Given that a natural gas utility's investments are primarily for the purpose of updating or expanding its pipeline delivery system, this agreement will affect a sizable amount of Black Hills' capital investments.

On October 13, 2021, parties filed written testimony in support of approving the settlement agree-

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ment for the Commission's consideration. Andrea Crane, President of The Columbia Group, submitted testimony on behalf of CURB, acknowledging the standards used by the Commission when reviewing settlements. The public comment period over the Company's application ended on October 21. The Office of Public Affairs and Customer Protection will release its report compiling the comments by October 26. An order on the settlement agreement is due out by December 30, 2021, with newly approved rates expected to go into effect in January 2022. The full settlement agreement can be found by accessing:

https://estar.kcc.ks.gov/estar/ViewFile.aspx/S20211008145124415 6.pdf?Id=c2a92965-1f94-4861-9fe9-1dcf79e9e0da

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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.

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