

# CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

August 2019



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

## CURB News is Back!

We are pleased to announce the return of CURB News. CURB News is the bi-monthly newsletter for the Citizens' Utility Ratepayer Board, a Kansas state agency. Each issue of CURB News will provide updates on certain matters before the Kansas Corporation Commission in which CURB is an active participant or is monitoring. Additionally, CURB News will provide other pertinent information regarding the utilities sector and customer safety.

## Atmos Energy Corp. Files Application for Rate Increase

On June 28, 2019, Atmos Energy Corporation (Atmos) filed an application with the Commission seeking to increase base rates by \$9.6 million. Atmos's request includes putting into rate base the \$3.3 million currently collected through the Gas System Reliability Surcharge Rider (allowed under Kansas law) and adjusting \$1.4 million of the company's Ad Valorem Surcharge Rider into rate base. These last two items are already being collected from ratepayers as surcharges. Atmos serves approximately 125,000 residential customers in Kansas and in many communities across the state. These customers stand to be substantially affected by the rate increase sought in Atmos's application.

CURB filed a petition seeking to be made a party to the Commission proceeding which will determine the application. CURB filed this petition with the Commission on July 2, 2019, and the Commission allowed CURB to intervene in this rate case on July 25. CURB has retained several consultants who will scrutinize the Atmos application from several perspectives: (1) Is the revenue increase sought in the application just and reasonable? (2) Has Atmos requested a rate of return on capital investments which is fair to consumers? (3) How should any rate increase be paid (monthly customer charges versus volumetric charges) and by which rate classes? There are several other issues which CURB is analyzing on behalf of residential and small commercial ratepayers.

There are a number of issues which stand out in the Atmos application. Among those is a request by Atmos to create a System Integrity Program, which Atmos suggests is necessary to replace aging and antiquated pipelines and service lines in its system on an accelerated basis. Atmos has several hundred miles of pipeline which is susceptible of leakage and which, if not replaced, could pose a safety concern. Atmos claims that there is not an immediate safety issue, but the company needs to more aggressively replace these old and out-of-date pipelines. To CURB, safety of consumers is an important goal,

*(Continued on page 2)*

### MAJOR CASES WE ARE FOLLOWING:

- **19-ATMG-525-RTS** —  
ATMOS RATE CASE
- **19-WSEE-355-TAR** —  
WESTAR'S ACQUISITION OF ADDITIONAL OWNERSHIP IN JEFFREY ENERGY CENTER
- **19-GIME-504-GIE** —  
INVESTIGATION OF KCP&L SCHOOL RATES

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We're on the Web!

[curb.kansas.gov](http://curb.kansas.gov)



## Atmos Files Application for Rate Increase (Cont'd)

but regulatory oversight is necessary to ensure that pipeline replacement is accomplished in a just and reasonable manner.

Another issue of importance to CURB is Atmos's request to increase its residential customer charge by more than three dollars per month. Atmos's customer charge is already one of the very highest customer charges in Kansas. These charges can be significant to lower income and fixed income customers. CURB has challenged other large increases in customer charges requested by other utilities and these utilities have been mindful of CURB's concerns and kept these charges relatively low.

The Tax Cuts and Jobs Act poses yet another issue for CURB. CURB wants to ensure that the utility customer gets the full benefit of the tax reductions brought about by the act. There are many other issues of import in this case and CURB is currently looking at ways to keep rates as low as possible while ensuring that the company maintains safe and reliable service.

The Commission has set a time and place for a public hearing: September 17, 2019 at 6:00 P.M., in the Edwards Campus Conference Room at 12604 Quivira Road, Overland Park, Kansas. It is important that residential and small commercial ratepayers express their views to the Commission concerning this proposed rate increase. CURB will file written testimony in this Commission proceeding on October 31, 2019. The application will be heard by the Commission starting on December 10.

“[ATMOS IS] SEEKING TO INCREASE BASE RATES BY \$9.6 MILLION...”

“[ATMOS REQUESTS] TO INCREASE ITS RESIDENTIAL CUSTOMER CHARGE BY MORE THAN THREE DOLLARS PER MONTH...”

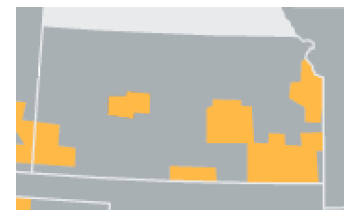
### ATMOS ENERGY CUSTOMERS WE NEED YOUR OPINION ABOUT NATURAL GAS SERVICE RATE INCREASES!

The Kansas Corporation Commission is holding a public hearing on Atmos Energy's proposed rate increase in docket 19-ATMG-525-RTS:

**TUESDAY, SEPTEMBER 17, 2019, 6:00 P.M.**  
**KU EDWARDS CAMPUS – BEST CONFERENCE CENTER**  
**12604 QUIVIRA RD**  
**OVERLAND PARK, KS 66213**

Public hearings give customers the opportunity to ask questions of representatives of the KCC Staff, CURB, and the utility company in an informal session. Those unable to attend in person can watch the hearing live from the Commission's website: [www.kcc.ks.gov](http://www.kcc.ks.gov). A recording of the hearing will be available on the KCC website beginning September 20, 2019.

*Any person requiring special accommodations at the hearing site under The Americans with Disabilities Act needs to give notice to the Commission at least 10 days prior to the scheduled hearing date by calling 785-271-3140.*



Atmos's KS natural gas service areas.

# CURB

Meet our Members:



**JAMES L. MULLIN, II**  
– CHAIR  
LENEXA



**HENRY HUNGERBEELER**  
– VICE CHAIR  
LEAVENWORTH



**MARY TREASTER**  
– MEMBER  
PRETTY PRAIRIE



**CLINT PATTY**  
– MEMBER  
TOPEKA



**MELODY McCRAY-MILLER**  
– MEMBER  
WICHITA

## Board Member Updates

On July 26, 2019, Mary Treaster and Melody McCray-Miller were appointed to four-year terms as board members of CURB. Ms. Treaster is from Pretty Prairie and represents the First Congressional District. Ms. McCray-Miller is from Wichita and represents the Fourth Congressional District. Individual bios of all our board members and staff can be found in the [About Us](#) section of our website.

On August 12, 2019, James “Lenny” Mullin, II was elected CURB Chair and Henry Hungerbeeler was elected Vice-Chair.

## Westar to Acquire Additional Ownership Interest in Jeffrey Energy Center

In a time of unprecedented high utility rates and in the middle of a rate moratorium, Westar Energy, Inc. (now under the parent company, Eversource Inc.) is requesting the KCC authorize collection of expenses associated with the operation of an additional 8% interest in the Jeffrey Energy Center (JEC) through a customer surcharge. Westar purchased this 8% interest from Midwest Power Company (MWP) on August 4, 2019. Prior to this transaction, Westar owned 84% interest in JEC and now owns 92% interest (the other 8% interest is owned by Kansas City Power & Light General Missouri Operations, a sister company under the Eversource banner). This transaction is the result of a lease agreement between the companies in 2007 and MWP’s refusal to pay its share of operating and maintenance expenses. Without a third party to pay these costs, Westar is now turning to the customers as the payers of last resort.

CURB intervened in this docket and filed testimony in opposition of the request. Evidence presented in the docket showed that Westar does not need this additional energy to meet customers’ demands. Instead, Westar has been selling this energy into the wholesale market and using the money to offset operating costs. However, CURB’s financial analysis highlights a net detriment to customers due to the fuel and other costs outpacing the wholesale revenue. Furthermore, JEC is a coal-fired power plant—coal is a fuel source that is rapidly losing favor nationwide due to increasing concerns over emissions and decreasing costs of alternative, cleaner fuel options such as wind and solar. CURB believes that making ratepayers responsible for 100% of an uneconomical asset is not a prudent decision.

An evidentiary hearing was held before the Commission on July 16, 2019. CURB reasoned that ratepayers should not be expected to pay for energy that does not benefit them, nor should they be required to bail out utility companies for prior decisions gone bad. KCC staff has lined up in support of Westar’s application. They assert that customers have benefited handsomely over the last decade. Now that the lease has expired and the wholesale market has declined, Staff and Westar say that ratepayers must start paying for that past benefit into the future. CURB stands against this giving and taking of rates. CURB presented multiple options to the Commission, including making shareholders responsible for the costs.



Jeffrey Energy Center in St. Mary’s, KS.

## CURB Supports Rate Study

During the 2019 legislative session, the Kansas legislature passed a bill which authorized a study concerning why utility rates are high in Kansas and ways by which consumer utility rates can be ameliorated. Substitute for Senate Bill 69 (Sen. Bill 69) passed the Kansas Legislature on April 2, 2019; Governor Kelly approved the bill on May 1, 2019. The study is now underway. The law requires the Kansas Corporation Commission (KCC) to supply information to be used in the rate study.

The rate study contemplated in Sen. Bill 69 is composed of two parts. In the first part of the study (to be completed by January 8, 2020), an organization selected by the Kansas Legislative Coordinating Council (LCC) will analyze several issues pertaining to the effectiveness of current ratemaking practices in Kansas, and options available to the KCC and Kansas legislature to improve utility prices, quality and service. One of the issues which will be studied is whether or not current ratemaking practices adequately discourage unnecessary capital investments. Another is whether allowing utilities to recover costs through surcharges, without comprehensive ratemaking processes, contributes to higher (than necessary) rates. A third is whether or not competitive markets for retail electricity could benefit all Kansans.

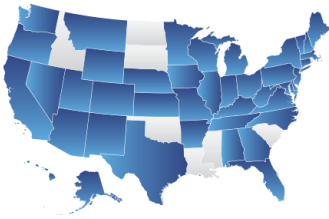
In the second part of the study (to be completed by January 12, 2021), the organization selected by the LCC will determine how rates for electric vehicle charging services should be designed to ensure such rates are just and reasonable, among several other issues. One such issue is whether or not retail electric rates in Kansas are a material barrier to economic development. Another issue is whether Kansans could benefit from improved access to advanced energy solutions, including micro grids, electric vehicles, and other solutions.

CURB supported the rate study envisioned by Sen. Bill 69. In fact, CURB testified before both the Senate Utilities Committee and House Energy, Utilities and Telecommunications Committee that the rate study is necessary to form regulatory practices to a quickly evolving economic environment. In its testimony, CURB noted that Kansans now face electric efficiency measures, the advent of electric vehicles, pooled power through the Southwest Power Pool, and other changes which were not contemplated when the Public Utility Act was enacted in 1911. A study is necessary to ensure that the regulatory model will take these changes into account in developing just and reasonable rates. CURB was concerned with the scope of the study as being too large. It will be surprising if any issue will be analyzed too deeply, and in all likelihood, the study may present such a smorgasbord of answers that no real solution will be clearly visible or can gain political traction. CURB anxiously awaits the report on the first part of the rate study.



“...THE RATE STUDY IS NECESSARY TO FORM REGULATORY PRACTICES TO A QUICKLY EVOLVING ECONOMIC ENVIRONMENT.”

“...KANSANS NOW FACE ELECTRIC EFFICIENCY MEASURES, THE ADVENT OF ELECTRIC VEHICLES, POOLED POWER THROUGH THE SOUTHWEST POWER POOL, AND OTHER CHANGES... A STUDY IS NECESSARY TO ENSURE THAT THE REGULATORY MODEL WILL TAKE THESE CHANGES INTO ACCOUNT IN DEVELOPING JUST AND REASONABLE RATES.”



Map of NASUCA member-states.

## CURB attends Mid-Year NASUCA Conference

David Nickel, Consumer Counsel for CURB, attended the mid-year conference of the National Association of State Utility Consumer Advocates (NASUCA) held in June 2019. NASUCA is an association of utility consumer advocates in 43 states, as well as the District of Columbia, Barbados, Puerto Rico, and Jamaica. NASUCA holds two conferences a year, one in June and one in November (the last being held in conjunction with the National Association of Regulatory Utility Commissioners, who determine utility rates). These conferences are very helpful to CURB and other consumer advocates to become familiar with upcoming utility issues, to learn and apply best practices in representing utility consumers in rate cases and other utility matters, and to share successes in meeting the various missions of state utility consumer advocates.

The June 2019 conference was filled with very interesting and timely topics. In fact, the meeting started with presentations on the effect of electric vehicles (EVs) on utility consumers. Bruce Biewald and Mary Whited of Synapse Energy Economics, Inc., presented information on the topic of “Evaluating and Shaping the Impacts of EVs on Customers.” The presentation stressed, among other concerns, the need for good utility policies to manage the increased electricity load that will be associated with increasing sales of EVs. In another presentation on EVs, Dr. Daniel Sperling, Distinguished Blue Planet Prized Professor and Founding Director of the Institute of Transportation Studies, University of California at Davis, shared his view that transportation is being transformed by electrification, automation and ride sharing (pooling). He showed information that indicated that the price of lithium batteries (currently used to power EVs) will drop 75% by the year 2030, meaning that electric vehicles will soon dominate the private transportation market. This underscores the need for good public policy concerning transportation. CURB likewise believes that there is a need to establish good public policy in Kansas surrounding the inevitable growth in use of EVs in our state.

Other topics covered in the June 2019 NASUCA conference included a presentation entitled “Reversing Energy System Inequity During the Clean Energy Transition” by John Howat from the National Consumer Law Center. Mr. Howat presented data showing that high utility prices inordinately affect low income families, requiring these families to often forgo healthy heat levels or other necessities to be able to pay their utility bills. A suitable safety net must involve keeping payments affordable, consumer protections and efficient usage, in his opinion. CURB agrees.

There were several other important presentations made by very informed speakers at this conference. CURB members that attend come back to Kansas with more knowledge and refreshed that there are several consumer advocates who face the same battles as Kansas CURB. The next NASUCA conference will be held in November 2019. Again, CURB will attend this conference to continue to improve its ability to advocate for residential and small commercial ratepayers.

“...TRANSPORTATION IS BEING TRANSFORMED BY ELECTRIFICATION, AUTOMATION AND RIDE SHARING...”

“...HIGH UTILITY PRICES INORDINATELY AFFECT LOW INCOME FAMILIES...”



## CURB Attends Robocall Webinar

A robocall is a phone call that results in a pre-recorded message rather than a call made by a live person. A robocall trying to sell something (e.g., claiming to offer computer virus removal service) or demanding payment (e.g., claiming you owe the IRS back taxes) is likely illegal and also likely a scam which the recipient should not respond to.

Several members of CURB staff recently participated in a webinar sponsored by the National Regulatory Research Institute (NRRI) entitled, “Robocalls – Can we ever hope to stop them?”

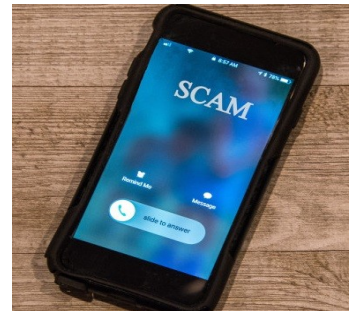
One subtopic of the discussion was the national implementation of caller ID authentication. The Chairman of the FCC has demanded that, by the end of 2019, major voice providers implement caller ID authentication (aka SHAKEN/STIR standards) to combat illegal caller ID spoofing which occurs when a caller deliberately falsifies the information transmitted to the recipient’s caller ID display to disguise their identity (e.g, scammers often disguise their real location by using the area code of the number being called, a practice called “neighbor spoofing”). Caller ID authentication allows the phone company of the consumer receiving the call to verify that a call is from the person making it and to stop calls where the caller doesn’t have legitimate access to the number.

The panelists also emphasized that in order for the proper authorities to identify and stop illegal robocalls, it is critical that recipients of a robocall make note of details such as the phone number, caller ID description, date, time, and brief summary of the call (Who was the call from, allegedly? Did the call demand payment or request personally identifiable information?) and then file complaints with the [FTC](#) and [FCC](#).

## Customer Safety – Contact Kansas One-Call (811) Before Digging

Because early fall is an excellent time to plant trees and shrubs, we would like to stress the importance of having underground utility equipment located and marked before undertaking any project that involves excavation. Having utility equipment marked ahead of time greatly reduces the likelihood of damaging utility equipment which could result in loss of service, injury, or death (even neighbors could be harmed, as well).

Kansas One-Call is the underground utility notification center for the state of Kansas. Homeowners should always contact Kansas One-Call—by calling 811 or [logging a request online](#)—at least two business days before attempting to dig in order to have a professional locator sent to mark underground utility lines for free. Common projects for which homeowners should contact Kansas One-Call include: planting trees and hedges; installing fences, decks, mailboxes, or water features such as ponds and fountains; and concrete work. For additional information visit [kansasonecall.com](#).



“...IN ORDER FOR THE PROPER AUTHORITIES TO IDENTIFY AND STOP ILLEGAL ROBOCALLS, IT IS CRITICAL THAT RECIPIENTS... FILE COMPLAINTS WITH THE FTC AND FCC.”



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Questions? Contact our Editor,  
Josh Frantz



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.