CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

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THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

CURB Intervenes and Influences in Atmos Rate Case

(Docket No. 19-ATMG-525-RTS)

CURB intervened, filed testimony and participated in the KCC hearing in the application filed by Atmos Energy Corporation (Atmos) with the KCC on June 29, 2019 (Docket No. 19-ATMG-525-RTS). In that docket, Atmos sought a net increase in its base rates of approximately $7.2 million. Atmos also sought to put into rate base $3.3 million it currently collects through the Gas Service Reliability Surcharge (GSRS) – a legislatively authorized surcharge aimed at pipeline and other equipment replacement for safety purposes and adjusting $1.4 million of its Ad Valorem Tax Surcharge Rider into base rates. Atmos also sought to have its rate case expense (approximately $817,000) collected through a one-time rate case surcharge. Typically, rate case expenses are amortized over a three-year period and collected through rates.

Atmos serves approximately 135,000 customers in 110 communities in Kansas. Atmos last filed an application for an adjustment to its base gas rates on August 13, 2015 (in Docket No. 16-ATMG-079-RTS).

Atmos' application in Docket No. 19-ATMG-525-RTS involved a number of significant issues affecting Kansas residential and small commercial ratepayers. First, Atmos proposed a new surcharge to be used as a five-year pilot program to collect on a quarter-annual basis the capital expenses incurred in replacing pipelines and other equipment throughout its Kansas system (its System Integrity Program – or SIP). Atmos noted that its bare steel pipelines are not weather protected, are older pipelines and pose some risk of gas leakage that could result in safety and reliability issues. Importantly, while Atmos can use the GSRS (which is limited to no more than $0.80 per residential customer per month) to replace infrastructure, Atmos claimed that it needed the SIP due merely to the amount of bare steel pipeline in its system. It proposed that the SIP should cover expenditures it made to replace or repair other capital assets in addition to bare steel pipelines in its system. Atmos' SIP did not have any upper limit on expenditures that could be collected through the surcharge.

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MAJOR CASES WE ARE CURRENTLY FOLLOWING:

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- **20-KG&E-112-CON** — EVERGY ENERGY AGREEMENT WITH SPIRIT AEROSYSTEMS
- **19-SPEE-240-MIS** — SOUTHERN PIONEER FORMULA BASED RATEMAKING
- **20-SPEE-169-RTS** — SOUTHERN PIONEER RATE CASE
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Second, Atmos proposed to allocate approximately 76.4 percent of the proposed increase to residential customers and 18 percent to commercial customers. Atmos proposed to increase the customer charge to residential customers by nearly $4.00 per month, to a total of $22.00.

Third, Atmos requested that the Commission authorize a rate of return on common equity (ROE) of 10.25%, but it revised that requested ROE to 9.9% by the time of the KCC hearing.

CURB's staff and consultants filed testimony after analyzing the issues of the rate case: Andrea Crane testified on the revenue requirement; Doctor Randall Woolridge testified on capital structure and rate of return; Glenn Watkins testified on rate design and class cost of service; James Garren testified on depreciation; and CURB Senior Rate Analyst Josh Frantz testified concerning the SIP.

CURB's position and testimony differed substantially from the position and testimony of Atmos on all material issues. First, Andrea Crane recommended a net revenue decrease of $3,157,324 for Atmos. Second, Doctor Woolridge testified that the rate of return on equity that the Commission should approve for Atmos is 8.7%. Third, James Garren testified that the depreciation rates posited by Atmos were too high. CURB witness Glenn Watkins proposed reducing the residential customer charge from $18.04 per month to $15.00 per month.

Josh Frantz testified that CURB could not support the SIP proposed by Atmos, but a number of modifications to the SIP would permit CURB to be more receptive to it. First, Mr. Frantz testified that Atmos' collection of expenses associated with pipeline replacement should be updated no more often than annually. Second, he suggested that the SIP should be used only for the replacement of bare steel pipelines. Mr. Frantz also proposed that the SIP should only be used after the GSRS limit was met and after taking into consideration depreciation expenses for capital expenditures made by Atmos. He suggested that there should be a total cap of approximately $35 million for the five years of the SIP pilot program and that Atmos should be required to agree to a three-year rate moratorium if the SIP is approved.

The application was heard by the entire Commission on December 10 through December 12, 2019. The Commission issued an order in this docket on February 24, 2020. In its order the KCC set a net revenue requirement decrease of $223,953. In arriving at this revenue decrease, the KCC determined that the rate of return on common equity for Atmos should remain at 9.1% as it is currently approved. The KCC rejected Atmos' proposal to have its rate case expense (approximately $817,000) collected through a one-time rate case surcharge. Rather, these rate case expenses will be amortized over a three-year period and collected through rates. The KCC rejected the SIP as proposed by Atmos, but advised Atmos that the KCC would approve a SIP tariff with a $35 million cap over five years, with an annual surcharge update, a three-year rate moratorium and available only after Atmos exhausts its GSRS. These conditions aligned with the recommendations of CURB. Regarding the customer charge, the KCC rejected Atmos' proposal to increase its customer charge by $4.00 per month, authorizing only a $0.85 monthly increase coinciding with the GSRS that Atmos will put into base rates. Overall, CURB believes that the KCC's order in Docket No. 19-ATMG-525-RTS is beneficial to residential and small commercial ratepayers.

Evergy Seeks Energy Agreement with Spirit Aerosystems

(Docket No. 20-KG&E-112-CON)

Spirit Aerosystems, a manufacturer of commercial and defense aircraft components and an Evergy customer, is the largest employer in Wichita and one of the largest employers in the State of Kansas. Spirit claims its Wichita location is currently at a price disadvantage for electric service compared to its locations in other states. Therefore, on September 6, 2019, Evergy (as Kansas Gas and Electric Company) and Spirit submitted an Energy Supply Agreement for the Commission's approval. This Agreement would take the place of Spirit's current rate tariff for a 10-year term. In essence, the Agreement would allow Evergy to provide discounted electric service to Spirit with the goal of improving the Wichita facility's competitiveness.

From CURB's perspective, this contract puts residential customers in a tough situation. The discount provided to Spirit would need to be made up somehow and would likely result in increased rates for residential customers, at least in the near term. However, it is possible the Agreement would eventually result in expansion and increased energy usage at Spirit's Wichita facility which could benefit all Evergy customers. Alternatively, if the Agreement is rejected, all ratepayers (particularly Wichita residents) would potentially be even worse off if Spirit were to drastically reduce its energy usage or leave the state entirely.

Both CURB and KCC Staff are currently evaluating this proposal. Once KCC Staff files its recommendation, CURB plans to file a response. The Commission's Order is due by May 4, 2020.

Southern Pioneer Seeks Approval to Continue Formula-Based Ratemaking

(Docket No. 19-SPEE-240-MIS)

On December 9, 2019, Southern Pioneer Electric Company (Southern Pioneer) filed an application with the KCC to gain approval of its continuation of a Formula-Based Ratemaking (FBR) plan to be used in conjunction with its most recent general rate case filing in Docket No. 20-SPEE-169-RTS. This type of ratemaking differs from traditional class cost-of-service (CCOS) review in that a pre-approved formula is created to calculate the appropriate change in rates for a utility.

Southern Pioneer is the only public utility in Kansas to use this form of ratemaking due to its unique capital structure and not-for-profit business status. Instead of having to raise capital from private investors and pay out dividends, Southern Pioneer finances its operations through loans and sales. The banks who loan money agree to do so on the condition that Southern Pioneer is able to maintain a ratio of debt-to-equity level within a certain range, called the Debt Service Charge (DSC). Southern Pioneer also has a separate FBR plan related to its transmission and distribution sales, referred to as the 34.5 kV plan.

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(**Southern Pioneer Formula-Based Ratemaking**—*from previous page*)

In the present docket, Southern Pioneer is requesting permission to make several changes to its FBR Plan:

- Lower its margin target for its DSC from 1.75 to 1.6;
- Allocate any revenue adjustments applicable to retail rates to the retail rate class based on its Test Year 2017 CCOS study instead of its 2010 filing;
- Use the distribution and transmission cost allocations from the CCOS to apportion revenue adjustments to rate classes rather than using base revenues by rate class;
- Remove the mechanisms from prior plans that could limit revenue adjustments based upon Southern Pioneer's equity ratio;
- Combine the separate filings for its DSC and 34.5 kV plans into one annual filing.

CURB is currently reviewing the application and written testimony while making additional requests for data from Southern Pioneer regarding these proposed changes. Intervener testimony is due to be filed on April 9, 2020.

Electric Rate Study Suggests Methods to Reduce Electric Bills in Kansas

During the 2019 legislative session, the Kansas Legislature passed a bill which authorized a study, comprised of two phases, concerning why electric utility rates are high in Kansas and ways by which consumer utility rates can be improved.

On January 8, 2020, London Economics International (LEI) released its *Study of Retail Rates of Kansas Electric Public Utilities* ("LEI Study"), available on the KCC's website, completing the first phase of the overall study.

LEI's analysis demonstrates that Kansas should adopt a portfolio approach targeted at achieving regionally competitive electricity rates over time. LEI recommends the following near-term steps in order to help achieve that objective:

- establish a State energy plan;
- mandate integrated resource plans (IRPs) from utilities with a competitive procurement framework;
- allow the KCC to explore the development of initial performance-based ratemaking (PBR) mechanisms which, over time, could evolve into a more comprehensive PBR framework; and
- establish a framework allowing for the securitization of uneconomic assets, given that the cost/benefit analysis of asset retirement demonstrates clear benefits to consumers.

Beyond those recommended steps, the LEI Study addresses energy efficiency, economic development tariffs, retail choice, and renewable energy.

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(**Electric Rate Study**—*from previous page*)

CURB has filed testimony in front of both the House and Senate Utilities Committees in response to the LEI Study. CURB notes that the LEI Study acknowledges that there is no easy fix to reducing electricity rates in Kansas. CURB wholeheartedly agrees with key points made by LEI that Kansas needs an energy plan and that regulated utilities should be required to submit IRPs at regular intervals. CURB greets with more caution the key points made by LEI that the Kansas legislature should consider the exploration of performance-based regulation and the retirement and securitization of uneconomic assets. CURB is certainly not opposed to either of the latter concepts, but suggests there are several issues that legislators, regulators and other stakeholders must consider in order to protect adequately the interests of residential and small commercial ratepayers.

The second phase of the study is due by July 1, 2020. It is being conducted by Energy + Environmental Economics (E3) and will focus on other consequential energy issues materially affecting Kansas electric rates, such as electric vehicles and transmission investments.

House Bill Proposes Electric Vehicle Charging Exemption from KCC Regulation (HB 2585)

On February 7, 2020, House Bill 2585 was introduced to the House Energy, Utilities and Telecommunications Committee. This bill seeks to amend Kansas statutes that define what is considered a "public utility" for purposes of regulation by the Kansas Corporation Commission (KCC).

Currently, electricity cannot be sold to recharge electric vehicles by anyone other than an electric public utility (such as Evergy). However, businesses in Kansas that sell compressed natural gas solely as vehicle fuel are exempt from natural gas public utility status and, therefore, not subjected to the regulatory requirements of the KCC. Instead, gas stations are monitored by a number of different agencies and set prices according to the market and those regulations. HB 2585 would add a similar exemption to the definition of public utility for businesses that sell electricity for the sole purpose of providing electric vehicle charging.

On February 13, CURB testified in support of HB 2585 in front of the House committee. CURB has historically supported the notion that electricity used to power electric vehicles should be paid for by the owners of electric vehicles and not subsidized by all electric ratepayers. CURB believes that this bill will help base the pricing and costs of electric vehicle charging on the free market. HB 2585 marks an important step in the movement of electric vehicle charging being separated from traditional utility services. CURB understands that further action will be necessary to complete this transition, such as establishing a different regulatory procedure to address pricing standards and practices. CURB will continue to follow HB 2585 as the bill makes its way through the review process.

Senate Bill Proposes Income Tax Exemption for Public Utilities
(SB 126)

Senate Bill 126, if enacted, would exempt public utilities and utility cooperatives from paying Kansas state income taxes and collecting state income tax expenses as a part of retail rates.

Additionally, if a public utility includes expenses related to income taxes as a component of its retail rates, the utility must track any over/under-collection of those taxes due to changes in state or federal law and file an application for new retail rates reflecting the changed income tax rates within 60 days of the change in tax law.

CURB filed testimony in support of this bill because the savings resulting from the income tax exemption should help lower utility bills for ratepayers in need of help due to high utility rates.

Senate Bill Proposes Economic Development Rates
(SB 339)

Senate Bill 339, if enacted, would permit the Kansas Corporation Commission (Commission) to approve Economic Development Rates (EDR). The bill allows the Commission to approve contract rates that are not based upon an electric utility's cost of service for a facility if the facility would not continue operations, would reduce operations, or would not expand or commence new operations in Kansas without the contract rate.

CURB opposes SB 339 because it is contrary to the interests of ratepayers. It benefits the utility but does not safeguard the ratepayer. The utility would uniformly reallocate reduced revenues from any contract rates to its other non-contract customers, but its shareholders would not bear any risk.

CURB has several concerns with the current bill because it runs contrary to the electric rate study authorized by the 2019 legislature. London Economics International (LEI) was commissioned by the legislature to perform this study. CURB agrees with LEI's assessment that an EDR:

- must be necessary and sufficient to secure the load;
- exceed the marginal cost of providing service; and
- benefit ALL ratepayers.

CURB also agrees with LEI's assessment that the following questions should be evaluated:

- Who pays for the discount?
- Should there be additional eligibility requirements?
- Are mechanisms in place to ensure load is maintained once EDR has ended?

CURB filed testimony in opposition of SB 339 as proposed. CURB would support an appropriate EDR once adequate stakeholder input is gathered and considered, and the EDR addresses the recommendations made by LEI.

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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,

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.