



CURBside NEWS

A Newsletter of the Citizens' Utility
Ratepayer Board

September 2001

Revisions on Junk Phone Calls, Cold Weather Rule: Coming in 2002?

Efforts to get tough on telemarketers and "deadbeat" utility customers get rolling

CURB Joins Fight Against Unwanted Junk Phone Calls

Kansas may finally join its neighboring states in enacting tougher laws on telemarketers next year, if state Senator David Adkins (R, Leawood) has his way.

Adkins has announced that he will sponsor legislation next year establishing an official registry for Kansans who don't want to receive calls from telemarketers.

The state would maintain a "Do Not Call" list, and enforce penalties against telemarketers who call persons on the list. Although a draft of the bill is not yet available, it is expected that it will be modeled after similar legislation passed in Missouri earlier this year.

Over 900,000 Missourians have registered since July 1, indicating the enthusiasm with which the new law was met by telephone customers weary of junk phone calls.

Colorado is beginning the rulemaking process to begin a similar program there.

Unfortunately, the bill faces a tough fight here in Kansas. Similar legislation has failed before, due largely to the strong opposition of long distance companies and other companies which do lots of telemarketing.

Already, several telephone companies have said they intend to fight the "Do Not Call" bill with all they've got. Their efforts in the past have resulted in watered-down, weak protections for consumers in Kansas.

Earlier this year, the Kansas legislature voted HB

2580 into law, which requires telephone companies to inform the public of their rights under current federal and state laws controlling telemarketing practices.

Additionally, the companies were ordered to inform the public of the Telephone Preference Service of the Direct (*See "Do Not Call" List, Pg. 2*)

KCC May Consider Cold Weather Rule Revisions for 2002-03

At the request of Kansas Gas Service, the KCC agreed on August 27 to consider opening a docket to tighten up loopholes in the Cold Weather Rule that allow certain customers to repeatedly default on gas bills.

However, the KCC disagreed that changes should

be made in time for the coming heating season, and said any changes would go into effect no sooner than the 2002-03 heating season.

KGS complains that, under the current "Good Faith" provisions of Cold Weather Rule, many customers request to be put on a 12-month payment plan, promising to pay off their overdue balance within one year.

They pay as little as one-twelfth of what is owed at the beginning of winter, but get away without paying bills during the months the CWR is in effect. (Companies are prohibited from disconnecting gas service during cold weather, with certain exceptions.)

Gas service will be cut off in the spring if the balance isn't current, but many people can live without gas during the summer. The problem, says KGS, is that a customer can get reconnected the following fall by agreeing to pay—again—one twelfth of what is owed.

KGS claims that a high percentage of persons who enter into payment agreements never pay more than a minimal payment or two, and do it year after year, because KGS isn't allowed under its current tariff to refuse service during cold weather to anyone who goes through the motions of meeting the Good Faith test.

KGS has been joined by Greeley Gas, UtiliCorp, KPL and Peoples Gas in seeking to eliminate a customer's right to

enter into a payment plan after defaulting previously, unless the owed amount is paid in full, and to refuse to reconnect customers who have unpaid balances. The companies also want to limit all payment agreements to six months.

Nobody wants to subsidize deadbeats who cheat the system year after year. However, during preliminary discussions with the companies and Commission Staff, CURB developed concerns that the extent of cheating in the system may be exaggerated by the companies, and is concerned that the suggested changes may result in thousands of honest but disadvantaged persons being denied gas service.

Furthermore, the current high outstanding balances may be due more to last winter's outrageously high gas prices and extreme cold weather than to payment rules, which have been in place for years.

The lax enforcement of current rules by the companies may have also contributed to high balances. They admit that they haven't been following up to make sure that customers on payment plans have actually applied for financial assistance, for example.

CURB and Staff want to make sure that any changes in the Cold Weather Rule's Good Faith provisions don't result in poor but honest folks having to do without winter heat.

CURB is opposed to any plan that would deny gas

service to large numbers of customers who owe modest balances and who make regular efforts to pay their bills. More flexibility may be in order.

We're not sure what can be done to winnow out the cheaters without denying gas service to honest but disadvantaged folks, but we will be active in the docket when it is opened.

Protecting the unfortunate among us from unwarranted cut-offs of gas service remains a priority at CURB. We'll keep you posted on any changes to the rules.

KCC Docket No. 02-KGSG-018-TAR

"Do Not Call" List

(continued from Pg. 1)

Marketing Association, which maintains a "Do Not Call" list and offers it to telemarketers for a fee.

Although many consumers have reported that the number of junk calls that they get is noticeably reduced after registering, even DMA admits that registration won't stop them all.

Unfortunately, DMA doesn't require its members to purchase the list, and doesn't discipline members who call persons on it. There are no legal penalties at all for companies who call numbers registered with the DMA. The list of companies who buy the list is secret.

The Kansas Attorney General's office recently

surveyed Kansans about whether we'd like to have an official "Do Not Call" list in Kansas. The response was overwhelmingly in favor of the idea: 800 out of 801 responses!

CURB will be working closely this year with the AARP, members of the legislature and other supporters of get-tough legislation on telemarketing to get a "Do Not Call" bill passed.

Please let Senator Adkins and your legislators know that you want tougher telemarketing legislation! Ask them to enact a strict "Do Not Call" law with stiff penalties for violations.

KCC Docket No. 01-GIMT-049-LEG

Try DMA's "Do Not Call" Service to Reduce Junk Phone Calls

Until Kansas gets its own "Do Not Call" legislation, you may register your residential telephone number(s) with the Direct Marketing Association's Telephone Preference Service.

This private organization's "Do Not Call" list will be used by telemarketers who buy the list to remove your telephone number from their calling lists.

Telemarketers who participate in this private, voluntary program don't want to waste their time, or yours, by contacting people who aren't receptive to telemarketing calls.

Procedures for registering your telephone number(s):

FREE Registration by Mail:

You may register by mail for free by sending your full name, full address, and up to two telephone numbers to the following address:

DMA
Telephone Preference Service
P.O. Box 9014
Farmingdale, NY 11735-9014

\$5.00 On-Line Registration:

You may register on the internet for \$5.00 at:

www.the-dma.org/cgi/offtephonedave

Registration is good for up to five years. If you move or change your phone number during the five year period, you will need to re-register. Registrations must be made with the Telephone Preference Service directly; third party requests cannot be processed.

Since the DMA's list is updated quarterly, it may a few months before unwanted calls are noticeably reduced.

Registering with DMA does not give you any legal rights, and will not eliminate all unwanted calls, but it may help reduce how many you get.

Tell Key Legislators that You Want a State "Do Not Call" list, with tough penalties for violations!

Sen. David Adkins
9401 Indian Creek Parkway
Overland Park, KS 66210

(913)451-5164
SenatorAdkins@aol.com
Rep. Michael O'Neal
Chair, House Judiciary Comm.
PO Box 2977
Hutchinson, KS 67504
(620) 662-0537
mroneal@southwind.net

Sen. John Vratil
Chair, Senate Judiciary Comm.
9401 Indian Creek Parkway
Overland Park, KS 67748-8916
(913) 451-5100
jvratil@lathropgage.com

Find your legislator FAST!

House and Senate Rosters are located at:
www.accesskansas.org/legislative/index.cgi

Keep the Heat On!

Talk to the utility if you're falling behind

As the winter heating season approaches, CURB wants to remind those who believe that they will have trouble paying their utility bills this winter to talk to the utilities as soon as possible.

The rules that protect you from disconnection when you're behind on your bills require you to inform the utility of your inability to pay the full amount before you are behind.

The rules also require you to apply for assistance programs

to determine your eligibility for GAP, LIEAP or other utility bill aid programs. The earlier you act to work with your gas company under the current rules, the less likely you will face disconnection.

Don't wait until you get a hang tag on your door to request a payment agreement. It may be too late to prevent disconnection.

Utilities say they'll be tougher this year

Complying with the details of the Cold Weather Rule will be especially important this year, because the gas companies plan to tighten up their enforcement of existing rules this winter, including getting more aggressive with collections.

They also plan to disconnect customers in default if a warm spell lasts long enough to allow them to complete disconnect procedures.

The Rule is designed to protect you from having to do without heat during the winter, but you must comply with its provisions to ensure that your gas service won't be disconnected.

Cold Weather Rule Basics

To qualify for the Cold Weather Rule, you must meet

the Good Faith Test set forth by the KCC:

1. Call the utility company or go into its office and tell them that you cannot pay the entire bill.
2. Give the company enough information to work out a payment agreement.
3. Pay one-twelfth of the total amount owed to the company. Customers also must agree to pay off the remainder in equal amounts over the next 11 months. (If service is disconnected, disconnection and reconnection charges may be required in advance.)
4. Apply for federal, state, local or other funds for which you are eligible.
5. If you have fallen behind on a previous utility payment plan, or have illegally used service, you must again meet the Good Faith Test by making the initial payment outlined in Step 3, and pay for the value of the illegally used service.

Disconnections can occur

The Cold Weather Rule is in effect from November 1 through March 31. However, if you fall behind in your bills, the company MAY notify you of its intention to disconnect your service if the weather is predicted to stay above 35 degrees for 48 hours.

The company may then disconnect you after proper notice if the weather is predicted to stay above 35 for another 48 hours. In other words, a prolonged warm spell may put you in danger of disconnection if you are behind on your bills.

A complete description of the Cold Weather Rule is available on the KCC's website at: www.kcc.state.ks.us, or call the KCC's toll-free Consumer Protection Hot Line at 1-800-662-0027

Losers Appeal Recent CURB Victories

CURB Staff has been scrambling to keep up with the snowstorm of paper filed in recent appeals of decisions favorable to residential ratepayers. No fewer than 7 different cases have been filed appealing the decision of the KCC to dedicate ad valorem refunds to a program to assist low-and-moderate income residential ratepayers with last winter's gas bills.

Currently, there is an appeal filed with the U.S. Court of Appeals in Washington, D.C., a class action suit in U.S. District Court in Kansas City, two appeals in Johnson County District Court, two in the Kansas Court of Appeals, and pending appeals on declined petitions for reconsideration with the KCC.

Additionally, Western Resources has petitioned for

reconsideration of the decisions in its rate case and in the hearings on its restructuring. CURB anticipates that Western will eventually file appeals with the Kansas Court of Appeals in these cases.

Finally, Southwestern Bell has filed an appeal of a recent KCC decision with the Kansas Court of Appeals.

Due to its limited resources, CURB will be unable to participate in every single case challenging a decision favorable to CURB.

However, CURB has intervened in the Johnson County cases, the Kansas Court of Appeals cases, and in the federal court in Kansas City to fight for dismissal of the class action suit. We'll make filings in other appeals as they are docketed.

CURB believes, however, that the KCC decisions being appealed are based on solid evidence in the record and that they will survive these attacks.

It will be several months before the ad valorem appeals are resolved, however, which may delay the distribution of the refunds to the aid programs.

Unfortunately, it may be next spring before ratepayers receive the relief that was intended to help them with last winter's bills.

KCC Docket Nos. 99-GRLG-405-GIG; 99-UNCG-406-GIG; 99-UTCG-408-GIG; 99-KGSG-477-GIG; 01-GIMT-082-GIT; Ks. Court of Appeals Case Nos. 01-87,485-A, 01-87,500-A, and 01-87,525-A; U.S. District Court, Kansas City, Ks. Case No. KS 01-

2315-CM; Johnson County District Court Case Nos. 01-CV 03957 and 01-CV 04836; U.S. Court of Appeals Case, D.C. Circ. Case No. 01-1342.

CURB Elects New Chair

By unanimous vote at CURB's July 31, 2001, board meeting, Gene Merry of Burlington was elected chair of the board for the coming year. Wichitan Bill Dirks, last year's Chair, was elected to the position of Vice Chair.

Congratulations, Gene and Bill!

Consumer Counsel Ponders Run for Insurance Commissioner

Walker Hendrix, Consumer Counsel for CURB, recently announced his intention to explore the possibility of running for State Insurance Commissioner in 2002.

Hendrix, a Republican from Lawrence, previously served a term in the Kansas House as a representative from Ottawa, and ran for the Insurance Commissioner post in 1994. He lost to incumbent Ron Todd in the primary, who in turn lost to Democrat Kathleen Sebelius in the general election.

Hendrix believes his strong performance as "watchdog" for utility consumers makes him an ideal

candidate for "watchdog" for insurance consumers as well.

However, he isn't sure at this point whether he will have sufficient financial backing to make the run. He plans to make an official announcement concerning his candidacy around the end of the year.

Western Gains \$7 Million on Reconsideration of Rates

On September 5, the KCC granted in part Western Resources' request for reconsideration of the KCC's July 25 Order reducing KGE's rates by \$41.2 million and increasing KPL's rates by \$18.5 million.

The effect of the KCC's change of heart is that KGE's rates will now decrease by \$41 million, and KPL's rates will increase by \$25.4 million.

The \$7 million adjustment was primarily due to the KCC's determination that Western will not make as much from off-system sales at its new KPL plants as originally predicted.

The KCC also granted Western's request to start billing under the new rates immediately, rather than wait until the rate design phase of the case is over.

KCC Docket No. 01-WSRE-436-RTS

Reconsideration of Western Restructuring Plans Delayed

On September 5, the KCC issued an order responding to Western Resources' petition for reconsideration of the Commission's July 20 decision to disapprove of Western's plans for restructuring its operations.

The Commission said that the demands of its current workload had not permitted it to give Western's petition adequate consideration.

Western was told to expect an order addressing its arguments by October 5.

KCC Docket No.01-WSRE-949-GIE

WestPlains' Rates To Increase

In an order issued August 15, 2001, the KCC increased WestPlains' rates by about \$3 million per year. How much residential and small commercial rates will increase will be determined in the rate design phase of the docket, which is set to begin immediately. This is the second rate case for WestPlains in the last two years. The Commission reduced WestPlains rates by \$8.3 million annually in June of 2000. (*KCC Docket No. 99-WPEE-818-RTS*). WestPlains disagreed with that rate decrease and challenged the Commission order by filing an appeal with

the Kansas Court of Appeals. The Court upheld the Commission's Order.

Unable to obtain relief in court, WestPlains filed a second rate case with the Commission, asking to increase rates to cover the \$8.3 million earlier reduction, plus an additional increase in rates of \$5 million.

In its August 15, 2001 order, the Commission firmly rejected the majority of WestPlains' claims, stating that WestPlains was attempting to relitigate issues previously decided by the Commission. The Commission found no compelling evidence to warrant overturning its earlier decisions.

However, the Commission did grant WestPlains a slightly higher return on equity, and allowed a slight increase in costs. WestPlains has asked the Commission to reconsider its order.

While WestPlains' rates are still \$4 million lower than its rates three years ago, CURB will not know the total impact on residential and small commercial customer rates for several months.

KCC Docket No. 01-WPEE-473-RTS

CURB Loses: Local Phone Rates Going Up

The Commission, by a two-to-one vote, has approved

increasing basic local telephone rates.

At an administrative meeting held on August 29, 2001, KCC Chair John Wine and Commissioner Cynthia Claus voted to approve a Stipulation and Agreement to raise local telephone rates which was submitted by Southwestern Bell, AT&T, Sprint, and the Staff of the KCC. An order finalizing the decision is expected soon.

Commissioner Brian Moline voted against approving the Stipulation. He indicated that he may write a dissenting opinion, a rare action at the Commission.

CURB also objected to this Stipulation, and vigorously opposed it in hearings before the Commissioners.

Staff of the KCC, along with Southwestern Bell, AT&T, and Sprint, proposed to increase rates for basic local telephone service by \$2.00 per month for Southwestern Bell, and up to \$6.00 per month in some Sprint United Exchanges.

To offset this increase, Southwestern Bell and Sprint will lower the access rate charges paid by long distance carriers such as AT&T for access to their local networks.

AT&T and Sprint will be required to flow these reductions through to customers by decreasing long distance rates.

CURB will evaluate the Commission's order approving the Stipulation when it is issued,

and determine whether to appeal the order.

In the mean time, call your long distance providers and tell them that you know that they are paying lower access fees in Kansas pursuant to this agreement, and that you want your long distance rates reduced accordingly.

As a postscript, the staff at CURB wishes to express our appreciation to all who wrote and called the Commission on this issue.

The Commission logged almost 1000 calls, letters, and emails, virtually all of them opposing the rate increase. KCC staffers reported that the volume of calls was one of the largest they'd ever seen.

Thanks for the fantastic response to our request for ratepayer input on this issue!

KCC Docket No. 01-GIMT-082-GIT

Wind Power in Kansas

Three new Kansas wind turbines were turned on last month, generating clean electricity for UtiliCorp customers in Kansas and Missouri. The wind turbines are the first three of 170 turbines to be developed near Montezuma, Kansas. They are owned by UtiliCorp and a subsidiary of Florida Power and Light, FPL Energy. FPL Energy is in the forefront of the wind energy movement as the nation's largest generator of wind power. With 19 wind farms in Iowa,

Texas, Minnesota, Wisconsin, Oregon and California, FPL Energy controls more than 1000 megawatts of wind power capacity. Another 2000 megawatts will be added soon, as the company is also involved in over 40% of the wind power projects currently under development or proposed for completion by the end of 2001.

At Montezuma, each wind turbine can generate up to 660 kilowatt hours of energy. When the entire development is operational, UtiliCorp expects to generate about 110 megawatt hours of clean, renewable electricity, enough to power 30,000 homes.

The cost of wind power is now becoming competitive with other sources of power. Small wind power turbines can generate power for less than 6 cents per kilowatt hour. On large wind farms with strong and reliable airflow, this figure can drop below 3 cents per kilowatt hour. At this price, wind power is competitive with gas-fired generation. The environmental benefits of sustainable wind power are an obvious plus.

Utilities like UtiliCorp view wind power as a necessary addition to their power portfolio. In competing for energy customers, wind power and other "green" energy sources provide a utility a means of distinguishing itself from its competitors.

Kansas is highly-ranked nationally as having the

appropriate geography and sustained wind patterns to support wind generation. Most wind power production is taking place in regions of the country where average annual wind speeds can reach 14.5 miles per hour or higher.

Wind Power Conference

Interested in learning more about wind-powered electric generation? The KCC's Energy Programs division is sponsoring a one-day meeting at the Dodge City Community College on Monday, October 22, 2001.

Topics to be addressed are: 1) an overview of wind energy development nationally and internationally, 2) an overview of Kansas wind power, 3) small wind systems, 4) what spurred wind development in other states (i.e., Texas will have 1500 megawatts on line by the end of the year), and 5) impact of a wind farm on local and state economies.

There will also be a tour of the Montezuma wind farm for those interested. Details are still being finalized.

If you are interested in attending, contact Jim Ploger at the KCC Energy Office (785-271-3349), or email him at j.ploger@kcc.state.ks.us.

KEPCO Files for Rate Increase

On July 3, 2001, the Kansas Electric Power

Cooperative, KEPCO, applied to increase its rates by \$6.5 million annually. The Commission has 240 days to make a decision on this request.

KEPCO is a generation and transmission cooperative with 21 rural electric cooperative member systems which distribute power to about 300,000 rural Kansans. KEPCO owns 6% of the Wolf Creek nuclear generating facility. Through its ownership in Wolf Creek and through purchases of energy, KEPCO supplies power to its member cooperatives.

KEPCO is seeking the increase in rates to offset higher purchase power costs that resulted from the rise in natural gas prices over the past year and to offset expenditures made to upgrade KEPCO's system monitoring equipment.

KEPCO has also proposed to consolidate and redesign its tariff structure in this case. Based on the tariff proposal, certain member systems could see a large increase in rates. KEPCO is proposing to phase in these increases over several years.

The member cooperatives are not regulated by the KCC.

KCC Docket No. 01-KEPE-1006-RTS

Citizens' Utility Ratepayer Board

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