

# CURB News



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

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September 2016

## CURB Welcomes Black Hills' Withdrawal of Application



On September 30, 2015, Black Hills Kansas (BHK) filed an Application with the Kansas Corporation Commission (KCC) in [Docket No. 16-BHCG-171-TAR](#) to allow it to enter into a Cost of Service Gas Agreement (the "COSG Agreement") with Black Hills Utility Holding (BHUH), an affiliated entity to provide a physical gas hedge against potentially rising gas costs. Under the COSG Agreement,

BHUH would establish a subsidiary, Cost of Service Gas Company (COSGCO), for the purpose of investing in gas reserves sufficient to provide up to 50% of BHK's annual gas requirements. Kansas ratepayers would be responsible for all costs of COSGCO, including a return on investment to COSGCO. Kansas ratepayers would share in the earnings on COSGCO's gas sales to third parties only if those earnings exceed the costs of gas production plus 110% of COSGCO'S rate of return on its investment in gas producing properties.

CURB intervened and, along

with KCC staff, opposed the Application. Among its reasons for opposing the Application, CURB posited that the Application unfairly transfers nearly all of the economic risk of gas production to ratepayers without reasonable compensation for bearing that risk and that it improperly guarantees COSGCO total cost recovery and a minimum return on equity while offering ratepayers only the possibility of lower costs. On August 1, 2016, BHK withdrew its Application. In view of CURB's opposition, BHK's withdrawal of its Application is a favorable turn of events for residential and small commercial ratepayers.

## CURB Demands That Energy Efficiency Programs Be Cost-Effective

On April 6, 2016, Kansas City Power & Light Company (KCPL) filed an Application with the Kansas Corporation Commission (KCC) pursuant to the [Kansas Energy Efficiency Investment Act \(KEEIA\)](#) for approval of a set of Energy Efficiency programs (EE) which KCPL labels its Demand-Side Management Program Portfolio ("DSM") and a proposed Rider to recover EE

program costs, lost revenues caused by energy efficiency measures and an "Earnings Opportunity" or "EO" which KCPL collectively labels its Demand-Side Investment Mechanism (DSIM). KCPL's DSM consists of 14 energy efficiency programs, seven of which are geared toward residential utility consumers and seven of which are geared toward commercial

utility consumers. KCPL's DSIM provides that KCPL shall recover on a forecasted basis its costs to implement its DSM and all utility revenues which KCPL loses due to these EE programs. The DSIM also provides that a share of the energy savings caused by its DSM shall be paid to KCPL's shareholders as an EO.

Several parties including the

### UPCOMING CASES WE ARE FOLLOWING:

- 16-KCPE-593-ACQ — GPE SEEKS TO ACQUIRE WESTAR
- 17-WSEE-014-TAR WESTAR AND KG&E'S 2016 TARIFF RIDER
- 16-KGSG-491-RTS KGS APPLICATION PROPOSING RATE INCREASE

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## CURB News

### **CURB** *Citizens' Utility Ratepayer Board*

#### Meet our Members:



**ELLEN  
JANOSKI**  
– CHAIR  
PECK

**BOB  
KOVAR**  
– VICE CHAIR  
OSAWATOMIE



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



**BOB  
HALL**  
– MEMBER  
HUTCHINSON



**HENRY  
HUNGER-  
BEELER**  
– MEMBER  
LEAVENWORTH

#### OUR MISSION:

TO ZEALOUSLY  
PROTECT THE  
INTERESTS OF  
RESIDENTIAL AND  
SMALL  
COMMERCIAL  
UTILITY  
RATEPAYERS ....

### (EE programs, cont. from page 1)

CURB have intervened in this matter. Although CURB supports energy efficiency, the key issues in the [KCPL Application Docket No. 16-KCPE-446-TAR](#) is whether the KCPL DSM is cost-effective, and whether the cost recovery mechanisms proposed by KCPL are reasonable under the guidance of the KEEIA. The KEEIA enacted on July 1, 2014, outlines guidance regarding EE programs which are sponsored by utilities and may be approved by the KCC. Under the KEEIA, the KCC can approve EE programs only if the programs are cost-effective, and if the EE program's benefits out-

weigh its costs. The KCC can choose among several tests to determine the cost-effectiveness, and has historically placed emphasis on two: the Total Resources Cost Test (TRC) and the Ratepayer Impact Measure Test (RIM). The TRC indicates whether a program is beneficial to the utility and the utility's consumers as a whole. The RIM measures the effect that an EE program has upon the customer's rates.

The KCPL Application is set for a hearing before the KCC. In its testimony filed with the KCC, CURB presents analysis that shows KCPL's EE programs are not cost-effective based upon the DSM portfolio's fail-

ure to pass the TRC and RIM. In other words, CURB found that KCPL's DSM costs ratepayers more money than it saves them in electric utility rates. Moreover, CURB testifies that the forecasted cost recovery mechanisms proposed by KCPL are unreasonable because these mechanisms are unnecessary to provide timely cost recovery to KCPL for its DSM. Finally, CURB believes that the EO proposed by KCPL is not cost-based, is inconsistent with traditional ratemaking principles and will result in a windfall for shareholders. Thus, CURB believes that KCPL's Application should be denied by the KCC.

### CURB Testifies in Southern Pioneer DSC-FBR Filing

CURB's Regulatory Analyst Cary Catchpole recently provided direct testimony to the Kansas Corporation Commission (KCC) regarding Southern Pioneer Electric Company's Annual Filing to make changes to their rates. The filing in [Docket No. 16-SPEE-497-RTS](#) is the third of five-year plan filings for Southern Pioneer's Annual Debt Service Coverage Formula Based Ratemaking Pilot Plan (DSC-FBR), a unique structure that allows the utility as a non-profit to obtain an annual rate adjustment automatically applied.

The pilot Formula Based Rate-making Plan approved in the 13-MKEE-452-MIS docket follows a formula for retail rates to be adjusted annually based on maintaining a DSC ratio of 1.75.

CURB's actions for the case included a review and analysis of the company's annual filing, attendance at two pre-hearing conferences, discussion/consensus with KCC Staff regarding adjustments and recommended filing changes, and filing testimony. Specific adjustments included an advertising and donations

reduction of \$8,257, a revenue annualization increase of \$43,571 and a revenue increase of \$198,323 for recognition of a KEPCo CMS Delivery Point Billing Error.

The order granting the annual Application and Approving Adjustments was subsequently issued by the KCC on August 2, 2016. The adjustments result in an increase in retail rates of 1.47%, as well as an allowance for the company to file its annual applications for DSC-FBR and 34.5kV FBR in one docket in future years.

### Meet Our New Staff

Recent additions to CURB (Citizens' Utility Ratepayer Board) Staff include David Nickel, Consumer Counsel.

Also new to CURB Staff are Thomas Connors, Attorney and Cary Catchpole, Regulatory Analyst. Welcome!

Check our webpage online to learn more about our new staff: <http://curb.kansas.gov/>

## Great Plains Energy Seeks to Acquire Westar Energy, Inc.

Great Plains Energy announced in May that it had reached a definitive agreement to acquire 100% of the stock of Westar in a transaction then valued at approximately \$12.2 billion, including assumed debt. Westar will become a wholly-owned subsidiary of Great Plains Energy (GPE), who will own upon closing Kansas' two largest jurisdictional utilities (KCP&L and Westar). Of the \$12.2 billion, consideration of approximately \$8.6 billion will be paid by GPE for 100% of the shares of Westar stock, and GPE will assume \$3.6 billion of existing Westar debt as

of the date the transaction was announced. The acquisition will require approval by the KCC; an Application seeking such was filed by the affected companies on June 28, 2016 ([see Docket No. 16-KCPE-593-ACQ](#)). The KCC has established a number of standards which it uses to determine whether or not acquisitions of utilities are in the public interest. These standards include, among several, the effect of the transaction on consumers, whether the proposed transaction will be beneficial on an overall basis to state and local economies and

to communities in the areas served by the resulting public utility operations in the state, and whether the transaction preserves KCC jurisdiction to regulate and audit operations in the state.

CURB is currently evaluating this proposed acquisition in view of its statutory obligations. The hearing in this docket will be heard in early 2017, and public hearings have been suggested but not finalized. These public hearing dates will be published on the CURB website.



## CURB Kicks Off New Policy Procedure

At its last open meeting on September 6, the five members of the CURB unanimously elected to direct its staff to proceed to establish a procedure by which CURB could set regulatory policies on issues which come before the KCC, so as to better represent residential and small commercial utility ratepayers. CURB's Consumer Counsel David Nickel presented to the CURB members a Project Charter which was created by CURB

staff and which sets various parameters for seeking input from stakeholders and obtaining other information in order to form a procedure by which CURB could then undertake to set well-informed and fair regulatory policies on such issues as electric efficiency programs, distributed generation, time-of-use rates, demand rate structures, and other important issues which face residential and small commercial utility ratepayers in KCC

cases. "Policies set by the CURB will align with CURB's statutory mandates and its core values, and will allow CURB staff to follow a set of long-term directions designed to best protect CURB's clients," said Counsel Nickel. Soon, CURB staff will be seeking input from various stakeholders with respect to the mechanics of the policy-making procedure which it will recommend *Continued on page 6...*

"POLICIES SET BY THE CURB WILL ALIGN WITH CURB'S STATUTORY MANDATES AND ITS CORE VALUES, AND WILL ALLOW CURB STAFF TO FOLLOW A SET OF LONG-TERM DIRECTIONS DESIGNED TO BEST PROTECT CURB'S CLIENTS"

## Consumer Feature: SMART WAYS to CURB ENERGY USE

### Be a speedy chef

Nothing is more energy efficient for cooking than your microwave. It uses two-thirds less energy than your stove.

### Turn up your thermostat

Set your thermostat to 78 degrees when you are home and 85 degrees or off when

you are away. Using ceiling or room fans allows you to set the thermostat higher because the air movement will cool the room. Always take into account health considerations and be sure to drink plenty of fluids in warm weather. (Save: 1 - 3 percent per degree, for each degree the thermostat is set above 72 degrees)

### Replace air conditioner filters

Dirty filters restrict airflow and can cause the system to run longer, increasing energy use. Replace filters monthly for maximum benefit.

See *Summer Time Energy-Savings Tips*, California Energy Commission, <http://www.consumerenergycenter.org/tips/>





## KGS Files Rate Case, CURB Opposes Revenue Increase

In Docket No. 16-KGSG-491-RTS, Kansas Gas Service ("KGS") filed an Application with the KCC seeking a distribution base rate increase of \$35.45 million, or approximately 15.0% over pro forma base rate revenue at present rates. KGS proposed to put the entire burden of this rate case upon residential ratepayers through the residential Customer Charge. The Application, which was filed with the KCC on May 2, 2016, also seeks to establish a formula-based ratemaking mechanism, which KGS calls a Cost of Service Agreement "COSA." Under the proposed COSA, KGS would make an annual filing on April 15th of each year that would report financial results of the prior calendar year; CURB and KCC staff would have 60 days to identify any disputed calculations. KCC Staff would need to provide a report and recommendation to the KCC by June 30th, and the proposed rates would go into effect with the first billing

cycle in September, unless disputed by the parties. Rate changes would be allocated based upon the customer class cost of service allocations approved in this rate case.

Based upon various adjustments to the rate base and accounting adjustments posited in its testimony filed with the KCC, including recommending a rate of return ("ROR") on rate base which is lower than that proposed by KGS (KGS argues that an ROR of 7.28% while CURB contends an ROR of 6.23% is appropriate), CURB shows that KGS has a revenue deficiency at present rates of \$3,700,300. In other words, CURB has made revenue requirement adjustments of \$31,746,365 to the Company's requested revenue increase of \$35,446,665. Moreover, given its current Gas System Reliability Surcharge of \$7.46 million (which will be rolled into the KGS rate base by law) and its Ad Valorem Tax Surcharge credit of \$1.60 million annually,

CURB suggests that KGS ratepayers should not experience any net revenue increase. CURB contends that, even if the KCC would grant KGS some revenue increase, it should not be placed solely on the residential ratepayer through the residential Customer Charge. CURB also opposes the COSA for a number of reasons. These include the fact that the COSA represents a significant and fundamental change in utility regulation, which KGS has not shown to be necessary. KGS is already protected from many revenue and expense fluctuations through several riders. CURB argues that the COSA would reduce risk to shareholders and increase costs to ratepayers, but KGS has not included any reduction in its claimed cost of equity to reflect this lower risk.

*The hearing of this docket is set in October. A public hearing will be held September 26th. See the Notice on page 6.*

CURB CONTENDS THAT, EVEN IF THE KCC WOULD GRANT KGS SOME REVENUE INCREASE, IT SHOULD NOT BE PLACED SOLELY ON THE RESIDENTIAL RATEPAYER.

## CURB Announces Core Values

Unanimously adopted at the last open meeting, the CURB is announcing its set of core values.

### CURB's Core Values:

- ◇ To advocate for reasonable utility rates for residential and small commercial consumers;
- ◇ To promote long-term, cost-effective reliability of utility services for residential and

- small commercial consumers;
- ◇ To protect residential and small commercial consumers from utility practices which are not in the public interest;
- ◇ To support a reasonable balance of the interests of present residential and small commercial ratepayers with the interests of future residential and small commercial ratepayers;
- ◇ To encourage cost-effective measures which result in en-

- ergy efficiency, technological advancements, and other improvements in the distribution of utility services to residential and small commercial ratepayers; and
- ◇ To improve transparency and the accessibility of communication channels between utilities and residential and small commercial ratepayers with respect to utility services and consumer rights.



## CURB Opposes Charging Ratepayers for EV Stations

On February 16, 2016, KCP&L filed its Application ([Docket No. 16-KCPE-160-MIS](#)) requesting approval of its Clean Charge Network (CCN), electric vehicle (EV) charging station tariff, and approval to include costs of the CCN program in KCP&L's base rates in an upcoming abbreviated rate case. The total projected capital costs of the CCN project is \$16.6 million (of which approximately \$5.6 million would be invested in Kansas). The CCN project consists of 1,000 electric vehicle charging stations to be installed in the company's Kansas City service area, of which 315 EV charging stations will be at host locations in its Kansas Service territory, with a 350 EV station cap. The annual revenue requirement and annual operations

and maintenance (O&M) expense for the project are estimated to be approximately \$850,000 and \$250,000 respectively.

At the hearing of this docket, Attorney Thomas J. Connors represented residential and small consumer utility ratepayers for the CURB. Mr. Connors recommended that the KCC reject KCP&L's recovery of costs of its CCN program in base rates because: a) allowing KCP&L to recover those costs is not in the public's interest; and b) there are general conflicts that exist between KCP&L's implementation of its CCN program and current Kansas policy. At the hearing and in its post-hearing brief, CURB presented evidence and argument that KCP&L should be denied cost recovery because: 1) KCP&L did not

demonstrate that there is a need or demand for its CCN program and as a result the CCN does not meet the K.S.A. 66-128 requirement of "used and required to be used"; 2) KCP&L should not be able to enter into a potentially competitive marketplace because it has an unfair advantage and could potentially stifle the market; and 3) KCP&L's CCN program results in cross-subsidization leading to rates that are "unreasonably discriminatory" and "unduly preferential" among Kansas ratepayers.

The docket is now closed and the KCC has taken the matter under advisement. The CURB recognizes the KCC as the policy maker in this Docket, and awaits the KCC's decision very soon. Stay tuned!



Electric Car (EV) at a Charging Station

## CURB's Voice in DG Rate Design

The Kansas Corporation Commission (KCC) and Staff have opened an investigation filing to establish rate design policy for customers of distributed energy generation (DG) as well as study the costs and benefits of DG systems. Distributed Generation is energy generated independently of the central electric grid, and typically includes most renewable energy sources such as solar photovoltaic (PV), wind power, biomass and geothermal power. Stating in [the](#)

[docket \(16-GIME-403-GIE\)](#) that a utility's cost of providing service to customers using distributed generation may be lowered by DG inherent benefits, the KCC has allowed input from all Kansas electric public utilities subject to KCC regulation and asked for their input in how the investigation should be accomplished.

CURB recognizes the importance of this subject to the retail ratepayers, and appreciates the proactive nature of

the KCC to address this topic at this time. Nationwide, 65 million customers are already eligible for new DG rates, and highly value rate design flexibility according to the Rocky Mountain Institute. CURB has provided its recommendations regarding the case proceedings. Further details regarding CURB's participation in this important case and your chance to give your comments are forthcoming. Stay tuned!



A Solar Photovoltaic (PV) array

## News from the Watchdog for Residential and Small Commercial Utility Consumers

### CITIZENS' UTILITY RATEPAYER BOARD (CURB)

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Questions? Contact our Editor,  
Cary Catchpole

#### IT'S YOUR CHANCE TO SPEAK OUT ON GAS RATE INCREASES!

The KCC has scheduled a public hearing on Kansas Gas Company's proposed rate increase in docket 16-KGSG-491-RTS:

**MONDAY, SEPTEMBER 26<sup>TH</sup>, 2016 AT 6:00 P.M.**  
**BEST CONFERENCE CENTER**  
**UNIVERSITY OF KANSAS, EDWARDS CAMPUS**  
**12600 QUIVIRA ROAD**  
**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).

*Any person requiring special accommodations at the hearing site under The American with Disabilities Act needs to give notice to the Commission at least 10 days prior to the scheduled hearing date by calling 1-785-271-3140.*

## We're on the Web!

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

### CURB POLICY PROCEDURE, cont. from page 3

for approval by the members of the CURB. After seeking input and reviewing best practices, CURB staff hopes to present this procedure to the Board members for their ap-

proval by the first of 2017. Thereafter, the CURB members will begin the process of memorializing several long-term regulatory policies which will be beneficial in fulfilling

CURB mandates of zealously representing residential and small commercial utility ratepayers in KCC cases.

#### ABOUT 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 CURB is composed of an appointed board of five (5) volunteer members representing the congressional districts in Kansas and one at-large member, and was initially founded by the Chairman of the Kansas Corporation Commission upon a perceived need for a stronger consumer advocate. Today, CURB has evolved to an independent agency, and states its mission is "to zealously represent the interests of residential and small commercial utility ratepayers before the Kansas Corporation Commission and the Kansas legislature."*