

CURB News

News from the Watchdog for Residential and Small Commercial Utility Consumers

June 2020



THE CITIZENS' UTILITY RATEPAYER BOARD OF KANSAS

COVID-19's Impact on Utilities in Kansas

In response to the unprecedented circumstances associated with the COVID-19 pandemic, the Kansas Corporation Commission (KCC) and utility companies across Kansas have implemented a number of changes to protect customers while maintaining service. As a result, these companies are incurring new costs and savings not experienced in normal operations. Several dockets have been recently created regarding issues arising from the COVID-19 pandemic.

Docket No. 20-GIMX-393-MIS

As a result of declarations by the World Health Organization, Governor Kelly, and President Trump in response to the COVID-19 pandemic, the Commission issued Emergency Orders suspending disconnections through May 31, 2020, to avoid immediate danger to the public health, safety, and welfare.

As disconnection and collection activities resume, all jurisdictional electric, natural gas, and water utilities are required to offer their residential and small commercial ratepayers a payment plan of up to 12-months to pay off any delinquent account balances that arose during the Commissions' prohibition on disconnections; and waive all late fees during the period of delinquency and repayment. These protections will continue through 2020 for any residential or small commercial customer that has experienced negative financial impact during the COVID-19 pandemic.

Docket Nos. 20-EKME-454-ACT, 20-EPDE-427-ACT, and 20-GIMG-423-ACT

These applications from Evergy, Liberty-Empire, Atmos, Black Hills, and Kansas Gas call for Accounting Authority Orders (AAO) to track all costs and lost revenue, along with carrying costs, incurred by the utility related to the COVID-19 pandemic for the duration of the pandemic. The companies have pledged to keep records and file annual reports regarding this tracking so all interested parties are apprised of the amounts.

KCC Staff and CURB generally support the use of an AAO for utilities to track the costs and lost revenue associated with COVID-19, but with more stringent reporting requirements than initially proposed. Both KCC Staff and CURB recommend the utilities also be required to report any cost savings related to

continued next page

INSIDE THIS ISSUE:

COVID-19 IMPACT	1
SPIRIT AEROSYSTEMS ENERGY AGREEMENT	3
ATMOS SYSTEM INTEGRITY PROGRAM	4
SOUTHERN PIONEER RATE CASE	5
SOUTHERN PIONEER FORMULA-BASED RATES	5
DISTRIBUTED GENERATION RATE DESIGN	7
LEGISLATIVE HIGHLIGHTS	8

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MAJOR CASES WE ARE CURRENTLY FOLLOWING:

- **COVID-19 DOCKETS**
- **19-SPEE-240-MIS** — SOUTHERN PIONEER FORMULA BASED RATEMAKING
- **20-SPEE-169-RTS** — SOUTHERN PIONEER RATE CASE
- **18-WSEE-328-RTS** — WESTAR RATE CASE /DG RATE DESIGN
- **20-EKME-514-GIE** — AGREEMENT BETWEEN EVERGY AND ELLIOTT MANAGEMENT

COVID-19 Impact: Docket Nos. 20-EKME-454-ACT, 20-EPDE-427-ACT, and 20-GIMG-423-ACT

—from previous page

COVID-19 and any federal or state funding received. The utilities are supportive of KCC Staff and CURB's recommendations regarding reporting requirements.

Additionally, KCC Staff and CURB agree that it is premature to determine issues of cost recovery until more information is available on how much will be requested for recovery and for how long the pandemic will last. Therefore, KCC Staff and CURB recommend the Commission reserve ruling on the accumulation of carrying costs and ratepayer recovery until a rate case is filed.

The Commission has yet to issue a ruling on the applications, but an order is expected soon.

Docket No. 20-EKME-483-MIS

Evergy reports that, due to the COVID-19 pandemic and the KCC orders prohibiting disconnections, as of May 8, 2020, it had approximately 190,000 residential customers throughout its service territories in Kansas and Missouri with arrears balances, of which nearly 60,000 were \$250 or greater. These are clearly significant numbers, affecting the ability of Evergy to deal with customers in arrears. Thus, Evergy filed an application to attempt to lessen the impact of COVID-19 on customers' electric service.

To attempt to reduce the number of customers in arrears; the magnitude of arrears; potential disconnections (and associated labor costs); potential write-offs and bad debt expenses; and number of calls and customer hold times, Evergy asks the Commission to approve the following (among other confidential matters):

1. Extension of moratorium on disconnection for non-payment to July 15, 2020;
2. Continuation of the Twelve-month payment plan, even for residential customers who initially agreed to one- or four-month payment plans but were unable to follow through on such plans; and
3. Incentives for payments by residential customers:
 - A. Incentive for one-month payment plan – customers with balances due that include at least \$100 in arrears incurred before July 15, 2020, who pay off their balance due in one month to return to current status would receive a bill credit in the month after the balance has been paid off of 10% of the balance paid, up to \$100;
 - B. Incentives for 4-month payment plan – customers with balances due that include at least \$250 who agree to an extended payment plan to resolve balances in no more than 4 months (i.e., four installments of 25% of the balance) would receive a credit of \$25 toward the 25% installment in the first month of the agreement. If the customer complies with the agreement by paying the remaining three installments plus the charges for service provided in each of the subsequent three months, the customer will receive a credit in the month after the customer completes the agreement of 50% of the final installment amount, up to \$75.

CURB did not object to the application. Having nearly 200,000 residential customers with arrearages is a substantial number. To Evergy's point, without some attempt to reduce the number of arrearages, there will likely be longer hold times for incoming calls and a higher number of uncollectable accounts. In CURB's view, it

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COVID-19 Impact: Docket No. 20-EKME-483-MIS—from previous page

could not argue that Evergy's approach was unreasonable. Moreover, to halt this proposal to extend the moratorium on disconnection would not appear to be in some of CURB constituent's interest.

This application is still pending before the Commission.

Docket No. 20-EPDE-448-MIS

Liberty-Empire filed an application with the Commission to approve a temporary waiver for a number of its tariffs related to certain billing practices and standards due to the impacts of the pandemic on its ability to meet these standards.

Liberty-Empire is requesting:

- additional time to process disconnections and reconnections;
- suspension of in-person collections efforts at a customer's residence;
- limited in-person meter testing, which could result in increased instances of estimated billing;
- suspension of late fees, late payments, and reconnection fees; and
- to offer reimbursement to customers for the cost of third party debit and credit card payment processing fees in the form of a bill credit (which amounts to \$3.95 per card transaction).

CURB appreciates the Company's desire to preserve the health of its customers and employees and recognizes the efforts it takes to do so. CURB supports the Company's efforts to reduce in-person contact to avoid spreading any illnesses, but has concerns regarding delays in reconnecting customers who make efforts to bring their accounts up-to-date. CURB hopes the Company will prioritize the reconnection of power to its customers over disconnections. In regards to the waivers of late fees, late payments, and reconnection fees, CURB supports the waiver in order to assist those financially impacted by the pandemic. CURB appreciates this action to help some of the more vulnerable of our constituents. Yet, we remain cautious about any future rate treatment this waiver may cause for other ratepayers. CURB is likewise supportive of the proposed reimbursement of card transaction fees. CURB would like to see additional changes to support ratepayers who are not able to pay their bill online or prefer paying by mail.

This application is still pending before the Commission.

Evergy's Energy Agreement with Spirit Aerosystems is Approved

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

Spirit Aerosystems, a manufacturer of commercial and defense aircraft components and an Evergy Central 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 will take the place of Spirit's cur-

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Evergy's Energy Agreement with Spirit—from previous page

rent 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 difficult situation. Although the ESA discount for Spirit will likely result in increased rates for residential customers, all ratepayers could potentially be even worse off if Spirit were to drastically reduce its energy usage or leave the state entirely, thereby reducing or eliminating its contributions to fixed cost.

If the ESA rate eventually encourages Spirit to significantly increase its usage then all customers could potentially benefit, however, circumstances involving Boeing and COVID-19 are negatively impacting Spirit's operations in the near term.

Ultimately, Staff and CURB agreed the discount is necessary to keep Spirit in the Evergy system and that the ESA is in all ratepayers' best interest. Both parties recommended approval of the ESA. CURB's response expressed concern over the underlying cause for the application—Evergy's high and uncompetitive electricity rates in Kansas.

On April 21, 2020, the Commission approved the ESA in its entirety, stating that the special contract meets the Commission's standard for approval and benefits Evergy's remaining core customers.

Atmos's System Integrity Program is Approved

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

In this rate case, one of the components of Atmos's initial request was a System Integrity Plan (SIP) tariff designed to accelerate recovery of capital expenses made to replace outdated, unsafe pipe. Both KCC Staff and CURB were opposed to the SIP tariff Atmos proposed. CURB put forth revisions that would result in an acceptable SIP tariff, namely: an annual surcharge update, a \$35 million cap over five years, available only after GSRS funds are exhausted, and acceptance of a three year rate moratorium. However, settlement was not reached on this issue.

In its February 24, 2020, Order, the Commission rejected Atmos's proposed SIP tariff, but noted it would approve a SIP tariff with CURB's proposed stipulations.

On June 17, 2020, Atmos filed a SIP tariff which conformed to the requirements outlined by the Commission. Thus, the Commission approved Atmos's SIP tariff on June 25, 2020.

Settlement Proposed in Southern Pioneer Rate Case

(Docket No. 20-SPEE-169-RTS)

On October 9, 2019, Southern Pioneer Electric Company filed an Application to make changes to its charges for electric service. Southern Pioneer is a not-for-profit utility with approximately 17,000 customers in 34 communities throughout southcentral and southwestern Kansas.

Southern Pioneer is seeking approval of a revenue-neutral rate adjustment—it is requesting a realignment of rates between customer classes and rate design changes that will allow it to recover more of its fixed costs in the non-energy dependent customer charge. In its initial proposal, such realignment would entail the monthly customer charge for residential customers being increased by \$1.20 annually for 3 years, for a total increase of \$3.60 from the current \$13.77 to the proposed \$17.37. The customer charge for other rate classes would be adjusted similarly.

Additionally, Southern Pioneer is seeking approval to close its street and security lighting tariffs for old lighting technologies, create a LED lighting tariff, and require any new service or replacement lighting requests to utilize LED lights.

The parties to this proceeding met and conducted settlement discussions on May 14, 2020. As a result of the settlement discussions, the parties reached a unanimous agreement.

All parties agreed that under current economic conditions brought on by factors related to COVID-19, it was not the proper time to propose any form of increase, no matter the amount, for at least one year. Therefore, as part of the Settlement Agreement the parties agreed that instead of the \$1.20 a year increase in the customer charge for each of the next three years, as proposed by Southern Pioneer, there would be no increase for one year followed by an increase of .90 cents per month on the customer charge beginning in year two. This increase will bring Southern Pioneer to a similar customer charge as allowed to Evergy and Empire. CURB spoke with its consultants who agreed that this was a reasonable change.

On May 18, 2020, the parties filed the Unanimous Settlement Agreement with the Commission and are awaiting a final order which is due by August 17, 2020.

Settlement Proposed for Southern Pioneer's Formula Based Rates

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

Southern Pioneer Electric Company is a not-for-profit utility with approximately 17,000 customers in 34 communities throughout southcentral and southwestern Kansas. Because of its non-profit status, Southern Pioneer is different from other Kansas utilities in that its rates are determined on an annual basis using a pre-approved formula relative to the percentage of debt it utilizes for operation and for its transmission and distribution system (referred to as Debt Service Charge-Formula Based Rates (DSC-FBR) and 34.5 kV FBR, respectively).

On December 9, 2019, Southern Pioneer filed its Application and supporting testimony requesting continuation

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Settlement Proposed for Southern Pioneer's FBR—from previous page

of its Formula-based ratemaking (FBR) plans modifications including:

- Lower its margin target for its DSC from 1.75 to 1.6 (The DSC is a measurement of cash flow available to pay current debt obligations—a critical metric to lenders.);
- Remove the mechanisms from prior plans that could limit revenue adjustments based upon Southern Pioneer's equity ratio; and
- Combine the separate filing for its 34.5 kV plan into one annual filing.

KCC Staff and Kansas Municipal Energy Agency (KMEA) filed direct testimony, supporting continuation of the FBR plans, but largely opposing Southern Pioneer's modifications. Specifically, KMEA recommended that the Commission establish an annual true-up mechanism that only applied to certain wholesale customers. This mechanism would provide a refund to those customers in the event that Southern Pioneer over-collects rates to pay on their debt.

CURB filed cross-answering testimony in opposition to KMEA's true-up request. Conceptually, CURB is opposed to any mechanism that unduly favors one rate class over another. CURB also indicated concerns that such mechanisms would be a disincentive for the utility to run their business efficiently and effectively because these mechanisms substitute sales revenue with fixed surcharges.

The parties to this proceeding met and conducted settlement discussions on June 11, 2020. As a result of the settlement discussions, the parties reached a unanimous agreement with the following key terms.

- Southern Pioneer is still required to make a filing to request continuation of its FBR plan every five years;
- Southern Pioneer will remain subject to an equity test to determine whether a rate increase is allowed. Instead of the totality of Southern Pioneer's equity being measured, only its distribution equity will be examined, to a limit of 15%. At the end of this next extension of the plan, Southern Pioneer is required to propose a new structure for this test;
- Southern Pioneer's DSC target ratio will be set to 1.60; and
- A final true-up to allocate any adjustments to all customer classes will take place at the end of the FBR plan. The true-up proposed by KMEA will not be adopted.

CURB believes this settlement will result in just and reasonable rates for residential and small commercial rate-payers. The Unanimous Settlement Agreement was filed on June 17, 2020. A Commission Order on this matter is due by September 21, 2020.

Distributed Generation Rate Design Remanded to KCC by Kansas Supreme Court

(Docket No. 18-WSEE-328-RTS)

This matter stems from the rate design for distributive generation (DG) customers in the most recent rate case filed by Westar (now Evergy Kansas Central). This case was finalized by the KCC by approval of a non-unanimous settlement agreement entered into by CURB, Westar, the KCC staff and other parties. However, Sierra Club and others objected to the settlement agreement. At issue was a three-part rate for the Residential DG class with demand charges of \$9.00 for summer and \$3.00 for winter. CURB joined the settlement agreement due to the large reduction in rates and an agreement by Westar not to increase the customer charge for residential customers for the next five years.

Sierra Club and other parties appealed this decision to the Kansas appellate courts. After the Kansas Supreme Court heard that appeal, it determined that the Commission's decision resulted in unlawful price discrimination against renewable energy production by private parties.

The case has now been remanded to the KCC for further proceedings consistent with the Court's ruling. Accordingly, the KCC has now reopened this case to determine an appropriate rate design for residential DG customers. Because other utilities may be affected by the Kansas Supreme Court's ruling and the decision of the KCC in this case, the KCC has opened this matter up to all interested parties.

In the current two-part rate design for residential customers, some of a utility's costs associated with demand for service are recovered through a customer charge while some are recovered through the volume charge. Where DG customers are concerned, by virtue of their solar facilities, they can reduce their usage thereby reducing the amount they contribute toward a utility's demand costs. However, in some cases, these customers may still need energy at time when there is high demand from all other customers. The Kansas Supreme Court seems to understand that to allow DG customers to place demand on the system without paying for it is an unwelcome result. However, the Court states that this concern can be addressed through either a straight-fixed-variable rate design or a time-of-use rate design.

In CURB's view, time-of-use rates may be a good fix for this matter. Some national analysts are calling for re-vamping rate design into time-of-use rates. Evergy offers a voluntary pilot program using time-of-use rates. However, not all Kansas utilities may be able to utilize this rate design. On the other hand, CURB is not aware of any utility that has been allowed to utilize a straight-fixed-variable rate design by a state utility commission. A straight-fixed-variable rate design generally places all fixed cost in the customer charge. It is very burdensome on low-income and fixed income ratepayers who desire to keep their energy costs low. In CURB's view, a straight-fixed-variable rate design is not a good solution to the problem raised by the Kansas Supreme Court in this case.

CURB will be actively involved in this case. Initial comments are due August 14, 2020.

Legislative Highlights

COVID-19 caused an expedited 2020 legislative session. CURB testified on several bills before both the House Energy, Utilities and Telecommunications Committee and the Senate Utilities Committee. Even though the legislative session ended abruptly, CURB was busy during the session representing the interests and needs of residential and small commercial utility ratepayers. Due to the expedited session, only one bill of note (House Bill 2585) passed both chambers of the Kansas legislature and became law. House Bill (HB) 2585 had a very interesting history.

On February 7, 2020, HB 2585 was introduced to the House Energy, Utilities and Telecommunications Committee. The bill was designed to amend Kansas statutes that defined what is considered a “public utility” to exempt businesses that sell electricity for the sole purpose of providing electric vehicle charging if the electricity was purchased from the retail electric supplier in the territory where the charging stations are located. On February 13, CURB testified in support of HB 2585 in front of the House committee. In CURB’s view, charging stations should not be subsidized by ratepayers.

The bill passed out of the House Energy, Utilities Committee on February 24, 2020. During debate before the entire House chamber, the bill was amended by adding a definition for “urban electric transmission lines.” This amendment was intended to provide KCC oversight on siting very large electric transmission lines through neighborhoods such as those in Northeast Wichita, Kansas. CURB supported that amendment because these types of transmission lines can unduly devastate the value of properties in established neighborhoods. The amended bill passed the House of Representatives 123-2 on February 26, 2020.

The bill was referred to the Senate Committee on Utilities and CURB was poised to testify in support. However, on March 17, 2020, the Senate Committee on Utilities deleted the contents of the bill and inserted the language for Senate Bills (SB) SB 126 and SB 339.

- SB 126 exempted public utilities and utility cooperatives from paying Kansas state income taxes and collecting state income tax expenses as a part of retail rates. CURB testified 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.
- SB 339 permits the KCC to authorize Economic Development Rates (EDR). The bill allows the KCC 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 rates. CURB and KCC staff testified against this bill because it failed to provide many safeguards needed to protect the ratepayer that were known to the Kansas legislature. (More details concerning EDRs will be published in a later edition of the CURB News.)

Aspects of HB 2585 that protected ratepayers and homeowners had lower legislative priority than economic development in Kansas. HB 2585 became law, effective July 1, 2020.

ABOUT THE CITIZENS' UTILITY RATEPAYER BOARD (CURB)

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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.



The Citizens' Utility Ratepayer Board



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