

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 9:30 a.m. on February 3, 2002 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research
 Emalene Correll, Legislative Research
 Bruce Kinzie, Revisor of Statutes
 Ann McMorris, Secretary

Conferees appearing before the committee:
 David Springe, Citizens' Utility Ratepayer Board

Others attending: See enclosed list

Presentation by CURB

David Springe, Consumer Counsel, Citizens' Utility Ratepayer Board (Attachment 1)

Mr. Springe provided some personal background information and his experience working with KCC and CURB prior to being appointed as consumer counsel. He presented information about the activities of CURB which is the advocate on behalf of residential and small commercial customers in public utility cases before the Kansas Corporation Commission. He provided a case update on electric cases, natural gas cases, telecommunications cases and future cases. A fact sheet on CURB was attached to his testimony.

The next meeting of the Senate Utilities will be a joint meeting with the House Utilities Committee on February 6.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachment - 1

Citizens' Utility Ratepayer Board

Board Members:

Gene Merry, Chair
A.W. Dirks, Vice-Chair
Frank Weimer, Member
Francis X. Thorne, Member
Nancy Wilkens, Member
David Springe, Consumer Counsel



State of Kansas

Kathleen Sebelius: Governor

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Citizens' Utility Ratepayer Board

Presentation to the
Senate Utilities Committee
February 3, 2003

By David Springe
Consumer Counsel

Chairman Clark and members of the Senate Utilities Committee:

Thank you for the opportunity to appear before you today and to present information about the activities of the Citizens' Utility Ratepayer Board ("CURB").

CURB is the advocate on behalf of residential and small commercial customers in public utility cases before the Kansas Corporation Commission. The Consumer Counsel of CURB is authorized to initiate and participate in actions before the KCC, represent ratepayers who file formal utility complaints, make applications for rehearing and seek judicial review of any order or decision of the KCC.

CURB is a five member volunteer Board comprised of one member from each of the congressional districts and one at-large member. CURB maintains an in-house staff consisting of a Consumer Counsel, appointed by the Board and two supporting attorneys. CURB also maintains two support staff for administrative activities. CURB maintains a presence in cases by relying on outside expert consultants to provide analysis and testimony on issues related to accounting, cost of service, rate design, engineering, depreciation, return on equity and other issues as needed.

CURB operates under the philosophy that residential and small commercial utility ratepayers are entitled to the same quality of legal representation as is available to large public utility companies. In this capacity CURB participates in 45 utility cases per year on average. CURB's case load is dictated by the timing of applications made at the KCC by regulated public utilities. CURB has no control over the timing or content of these applications. CURB aligns its resources to address those utility filings that will have the largest impact on the largest number of residential and small commercial customers. Applications for rate increases are given top priority, with resources assigned to other utility filings made on a case by case and resource availability basis.

1) Case Update

A. Electric cases

- KCC Docket No. 01-WSRE-949-GIE. Westar Energy's proposed company restructuring was denied by the KCC on July 20, 2001. Since that time the KCC has denied a second

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Westar Energy proposal to restructure the company. CURB's chief concern in this docket has been, and continues to be, that the proposed restructuring would leave the electric utility in Kansas deeply in debt. Excessive debt will impact Westar's ability to provide efficient and reliable service at just and reasonable rates in the future. Westar has recently experienced a change in management and management philosophy, and is now purporting to be focused on paying down debt and concentrating solely on its electric utility business. Pursuant to KCC order, Westar must file a new plan on February 6, 2003, addressing how it will pay down debt and comply with certain other KCC ordered actions. CURB will maintain an active role in this docket by evaluating this new plan to insure that debt is paid down expeditiously while the quality of electric service is maintained. CURB also seeks to insure that ratepayers are not asked to pay increased rates to pay down debt that was largely a result of Westar's unregulated activities.

- KCC Docket No. 03-MDWE-421-ACQ. Midwest Energy Electric Cooperative is proposing to purchase approximately 10,000 current Westar Energy customers, and the local distribution facilities that serve those customers. The customers and distribution facilities are located in 42 towns in Ellsworth, Rice, Pratt, Reno, Barton, Stafford, Pawnee and Edwards Counties. The total purchase price is \$33 million. The purchase price includes a substantial acquisition premium. CURB has not developed a final position on this case, but is concerned that the current Westar customers, and the current Midwest Energy Electric customers, may face substantial increases in rates if this sale is approved as proposed. While Midwest promises to hold Westar customer rates at the current level for one year, eventually the two systems will be merged into Midwest's Electric system and the cost of the acquisition will be factored into customer rates.
- KCC Docket No. 03-MDWE-301-RTS. Midwest Energy proposed increasing rates to consumers by \$1.8 million. CURB recommended a decrease in rates of \$1.8 million. The largest disagreement between Midwest and CURB related to depreciation and the service lives assigned to certain electric facility accounts. The KCC did not accept CURB's depreciation methodology in Midwest's natural gas rate case (see below). Therefore, a settlement agreement has been reached in principle in this case, and when finalized will be presented to the KCC. The agreement increases rates by only \$600,000.
- KCC Docket No. 02-KCPE-840-RTS. Kansas City Power and Light, the KCC and CURB reached a stipulation and agreement that protected consumers from paying the costs associated with the extensive damage to KCP&L's electric system caused by the January 2002 ice storm. In addition, KCP&L agreed to implement depreciation measures at its Wolf Creek nuclear power plant consistent with those of Westar Energy, the other majority owner of Wolf Creek. KCP&L agreed to reduce consumer rates between \$12 and \$13 million, depending on the outcome of the depreciation change. On December 12, 2002 the KCC approved KCP&L's compliance filing, reducing consumer rates across the board by \$12.5 million beginning January 1, 2003.

B. Natural Gas cases

- KCC Docket No. 03-KGSG-602-RTS. On January 31, 2003, Kansas Gas Service Company filed to increase customer rates by \$76 million annually. KGS provides natural gas distribution service to approximately 600,000 residential and small commercial customers in Kansas. KGS is proposing that \$71.5 million of the \$76 million increase in rates be paid by Residential (\$58 million) and General Service (\$13.5 million) customers. CURB is beginning its review of this case.
- KCC Docket No. 01-MDWE-922-RTS. Midwest Energy Electric Cooperative filed to increase natural gas distribution rates by \$5.7 million annually (52% increase in delivery rates.) CURB reviewed the filing and recommended a rate increase of \$2.1 million. The KCC recently issued an Order allowing Midwest to increase rates by \$4.8 million, over CURB's strong objection. CURB is currently evaluating whether to appeal this order.
- KCC Docket No. 99-GIMG-068-GIG. This ongoing case involved refunds of Ad Valorem taxes to Kansas consumers. Upon a motion by CURB, the KCC utilized the majority of refunds to provide aid to low income consumers in the face of extreme natural gas prices in the winter of 2000-2001. The KCC's action was challenged in numerous courts over the last two years. With the recent denial of Certiorari by the United State Supreme Court, low income consumers began receiving the refunds in November of 2002. The Kansas gas distribution utilities held customer arrearages in abeyance pending the outcome of the litigation. A small portion of the Ad Valorem tax refunds that are due to Kansas direct sale customers have yet to be refunded. CURB has filed a motion with the KCC to begin the process of refunding this remaining money.
- KCC Docket No. 02-UTCG-701-GIG. The KCC opened an investigation into affiliate transactions between the Aquila's unregulated businesses and Aquila's Kansas utility properties (WestPlains Energy, Peoples Natural Gas Co. and Kansas Public Service Co.) The KCC found no immediate accounting issues related to affiliate transactions, but given Aquila's current financial condition, the KCC, and CURB will continue monitoring Aquila.
- Hedging activities. Kansas Gas Service Company, Atmos/Greeley Gas Company and Aquila each have an active program that seeks to reduce gas price volatility through the use of financial instruments (hedging programs). CURB maintains a presence in these ongoing dockets. Each utility has a budget that equates to approximately one dollar per month per sales customer. Each utility seeks to purchase call options, or other financial instruments, with the goal of minimizing or eliminating the impact of sudden increases in natural gas prices, while maintaining low rates when natural gas prices are low.

C. Telecommunications cases

- KCC Docket No. 02-GIMT-555-GIT. Pursuant to K.S.A 66-2005(P) a local exchange carrier may file an application with the KCC to price deregulate, at the exchange level, “any individual service or service category”. The KCC “may” grant price deregulation upon a finding that there is “a telecommunications carrier or alternative provider providing a comparable product of service, considering both price and function”. The KCC “shall” act on the application within 21 day, with a possible 30 day extension for good cause. This docket will establish minimum criteria that should be included in an application to price deregulate a service, along with timelines for review of an application.
- KCC Docket Number 02-GIMT-272-MIS. Pursuant to K.S.A 66-2005(f) the KCC reviews the price cap formula for price cap telephone companies every five years. Currently Southwestern Bell and Sprint are the only telephone companies that have elected price cap regulation. After reviewing the price cap formula, CURB participated in a stipulation and agreement that set the productivity offset for Basket One services (basic residential and small business service) at 3.15%. Southwestern Bell and Sprint also agreed to continue to provide free 800 service to public schools and county government entities where 10% or more of the constituents are required to make a long distance call to reach the schools or county seat.
- KCC Docket No. 02-GIMT-678-GIT. This docket is an investigation into telephone company practices that seek to “winback” customers that have moved to a competitive supplier, or to “retain” customers that are a threat to move to a competitive supplier. CURB has participated in several KCC sponsored workshops and will file testimony on February 14, 2003. A hearing is scheduled for April 8-10, 2003.
- KCC Docket No. 01-GIMT-032-GIT. CURB participated in this docket arguing that upgrades to the network architecture to provide DSL must be looked at as upgrades to the basic network architecture of the telephone voice system. As such, CURB argued that the KCC must make the technology available as an unbundled network element to competitive providers. The Commission issued its order in this docket on January 13, 2003 determining that it is in the public interest to make this portion of the network architecture available as an unbundled network element. The Commission also order several other aspects of the network be provided on a non-discriminatory basis.

2) Future Cases

- Filings pursuant to KCC Docket No. 03-GIMX-431-GIV. This docket established the procedures for review and recovery of increased expenditures by public utilities for security measures, pursuant to K.S.A. 66-1233. The KCC set a 60 day review period. CURB will maintain an active role in reviewing any proposed surcharge to recover security expenditures.
- Filings pursuant to KCC Docket No. 02-GIMT-555-GIT. CURB will maintain an active role in those applications for price deregulation of telecommunication services that will impact the local rates of residential and small commercial telephone customer. Review must be accomplished in 21 days, with a possible 30 day extension.
- Filings pursuant to S.B. 80. If passed in a form substantially similar to that proposed, CURB will take an active role in any application that seeks to encumber utility assets.
- Filings pursuant to S.B. 104. If passed in a form substantially similar to that proposed, CURB will take an active role in any application that seeks a predetermination of ratemaking principles and treatment for new electric production facilities or wholesale electric contracts.
- Filings pursuant to H.B. 2130, an act concerning transmission of electric power and recovery of transmission costs. If passed in a form substantially similar to that proposed, CURB will actively participate in any application to re-align transmission rates. This bill allows electric public utilities to create an individual charge for electric transmission costs, separate from the rolled in retail rate now charged on most utility customer bills.

3) Other activities.

- CURB is a designee to the Kansas State Energy Resources Coordination Council.
- CURB maintains an active role in the National Association of State Utility Consumer Advocates (“NASUCA”). Through NASUCA, CURB seeks to maintain awareness of, and participation in, issues at the Federal level that will impact Kansas public utility consumers.

Citizens' Utility Ratepayer Board

Fact Sheet

Established: January 7, 1988; codified at K.S.A. 66-1222. Given independent agency status in 1992, allowing participation in the National Association of State Utility Consumer Advocates ("NASUCA")

Mission: Protect and advocate on behalf of the interests of Residential and Small Commercial ratepayers before the Kansas Corporation Commission and in the Kansas courts.

Philosophy: Residential and Small Commercial Ratepayers are entitled to the same quality of legal representation that is available to large public utility companies.

Board: Five-member volunteer Board, appointed by the Governor to staggered four year terms. One member is appointed from each of the four congressional districts, with the fifth member serving as an at-large appointee.

<u>Board Member</u>	<u>Hometown</u>	<u>Congress. Dist.</u>	<u>Term Expires</u>
Gene Merry	Burlington, Ks	Second	June 30, 2005
A.W. "Bill" Dirks	Wichita, Ks	Fourth	June 30, 2003
Francis X. Thorne	Leavenworth, Ks	Member at Large	June 30, 2005
Nancy Wilkens	Great Bend, Ks	First	June 30, 2005
Frank Weimer	Lenexa, Ks	Third	June 30, 2005

Staff: Five member Staff, consisting of the Consumer Counsel, two supporting Attorneys, and two administrative staff.

Budget: \$613, 620 (FY 2003); roughly evenly split between in-house costs such salary and wages, and outside consulting expenditures.

Activities: CURB intervenes in Electric, Natural Gas and Telecommunications cases before the KCC. Rate cases are given priority, with other cases participated in as resources permit. CURB maintains a presence in cases through the employment of expert consultants in the areas of accounting, financial analysis, cost of service, rate design, engineering, depreciation, return on equity and other issues as needed. Expert consultants evaluate utility applications and present expert testimony before the KCC as needed. Over the last 4 years CURB has participated on average in 45 cases per year.