

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of Southern Pioneer Electric)
Company, Regarding Violation of the)
Commission's Minimum Standards for) Docket 18-SPEE-428-SHO
Payment Methods for Utility Bills by)
Charging Its Customers a Convenience Fee)
to Submit Bill Payment via Electronic)
Check.)

**PETITION TO INTERVENE AND MOTION FOR
PROTECTIVE ORDER AND DISCOVERY ORDER**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and petitions the Corporation Commission of the State of the Kansas ("Commission") for intervention in the above-captioned case pursuant to K.S.A. 66-1223 and K.S.A. 77-521(a). In support of its petition and motion, CURB states and alleges as follows:

1. On March 27, 2018, Commission Staff filed a Report and Recommendation with the Commission, noting that by charging a convenience fee to customers who make bill payments via electronic check, Southern Pioneer Electric Company (Southern Pioneer) may be in violation of the Commission's Minimum Billing Standards.¹

2. On April 10, 2018, The Commission issued an Order to Show Cause, ordering Southern Pioneer to show cause why it is not in violation of the Commission's Minimum Standards within 30 days from the date of the Order.²

3. CURB is composed of five volunteer board members.³

¹The Commission has adopted Minimum Standards for Payment Methods for Utility Bills and Allowing the Acceptance of Credit Cards by Kansas Jurisdictional Electric, Natural Gas, and Water Utilities (Minimum Billing Standards). Order to Show Cause, pp. 2-3 (April 10, 2018).

² Order to Show Cause, Ordering Clause A.

³ K.S.A. 66-1222(a).

4. CURB has specific statutory authority to “represent residential and small commercial ratepayers before the state corporation commission”⁴ and to “function as an *official intervenor in cases* filed with the state corporation commission.”⁵ CURB’s authority and role as the official intervenor in cases filed with the Commission has been recognized by the Kansas Supreme Court.⁶ CURB also has specific statutory authority to seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers.⁷

5. CURB’s express statutory authority referenced above reflects the intent of the Legislature that CURB should participate in cases filed with the Commission. This fulfills the requirement under K.S.A. 77-521(a)(2) because CURB “qualifies as an intervener under any provision of law.”

6. The residential and small commercial ratepayers whose interests CURB represents will be bound by any Commission order or activity in this proceeding. The rates paid and the services received by residential and small commercial ratepayers may be substantially affected by any Commission order or activity in this proceeding with respect to the Commission’s Order to Show Cause to determine whether Southern Pioneer is in violation of the Commission’s Minimum Standards by charging its customers a convenience fee to submit bill payments via electronic.

7. The representation of CURB’s interests in this proceeding by existing parties is inadequate. No other party to this proceeding is authorized to (a) specifically represent residential and small commercial ratepayers before the Commission, (b) function as the statutory official

⁴ K.S.A. 66-1223(a).

⁵ K.S.A. 66-1223(b).

⁶ K.S.A. 66-1223(b). *See, Citizens’ Utility Ratepayer Board v. Kansas Corporation Comm’n*, 24 Kan. App.2d 63, 68, rev. den. 262 Kan. 959 (1997) (“*CURB v. KCC*”). *See also, Farmland Industries, Inc. v. Kansas Corp. Comm’n*, 29 Kan.App.2d 1031, 1047-48, 37 P.3d 640 (2001) (“The bulk of current customers otherwise entitled to receive refunds are *statutorily represented* by CURB. *See* K.S.A. 66-1223(a)”)

⁷ K.S.A. 66-1223.

intervenor in cases filed with the Commission, or (c) seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers. While Commission Staff may have authority to investigate, evaluate, testify and offer exhibits on behalf of the *general public* pursuant to a definition contained in a Commission regulation,⁸ Staff does not specifically represent residential and small commercial ratepayers and is expressly denied the right to appeal Commission orders.⁹

8. Accordingly, CURB has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party. Pursuant to K.S.A. 77-521(a)(2), CURB qualifies as an intervenor (a) under provision of law and (b) because the rights, duties, privileges, immunities, or other legal interests of residential and small commercial ratepayers may be substantially affected by this proceeding.¹⁰

9. CURB's requested intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.¹¹

10. CURB therefore requests that the Commission grant CURB's Petition to Intervene and allow CURB to participate fully in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings.

11. In addition to undersigned counsel, please include the following CURB representatives with all electronic notices, pleadings, and correspondence regarding this Application

⁸ Staff's authority to represent the general public is not specifically authorized by statute, but merely referenced in the definition section of Commission regulations. K.A.R. 82-1-204(q) ("Technical staff may conduct investigations and otherwise evaluate issues raised, and may testify and offer exhibits on behalf of the *general public*.") (emphasis added).

⁹ K.A.R. 82-1-204(i)(3).

¹⁰ K.S.A. 77-521(a)(2).

¹¹ K.S.A. 77-521(a)(3).

as follows:

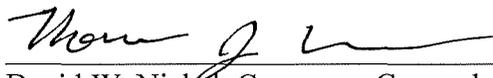
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12. Pleadings, testimony, exhibits and discovery responses may contain confidential information. CURB is requesting the Commission issue a Protective Order and Discovery Order in this docket to allow CURB and its consultant access to the full information contained in this filing.

WHEREFORE, CURB respectfully requests the Commission grant its Petition for Intervention and Motion for Protective Order and Discovery Order in this Docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE

18-SPEE-428-SHO

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 11th day of April, 2018, to the following:

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