

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of a General Investigation)
Regarding the Effect of Federal Income)
Tax Reform on the Revenue Requirements)
of Kansas Public Utilities and Request to)
Issue an Accounting Authority Order) Docket No. 18-GIMX-248-GIV
Requiring Certain Regulated Public)
Utilities to Defer Effects of Tax Reform to)
a Deferred Revenue Account.)

**CURB'S RESPONSE IN SUPPORT OF STAFF'S MOTION TO OPEN GENERAL
INVESTIGATION AND ISSUE ACCOUNTING AUTHORITY ORDER REGARDING
FEDERAL TAX REFORM AND REPORT AND RECOMMENDATION**

COMES NOW, The Citizens' Utility Ratepayer Board (CURB) and submits its *Response in Support of Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform as well as Staff's Report and Recommendation* filed by Staff of the Kansas Corporation Commission (Staff and Commission respectively) in the above-captioned docket on December 15, 2017.

Background

1. On December 15, 2017, Commission Utilities Division Staff (Staff) filed its Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform as well as its Report and Recommendation (R&R).¹ In its Report and Recommendation Staff recommends that the Commission issue an Order:

- (a) Opening a general investigation for the purposes of examining the financial impact of anticipated federal income tax reform on regulated electric, natural gas,

¹ Staff's Motion to Open General Investigation and Issue Accounting Order Regarding Federal Tax Reform and Staff's Report and Recommendation. (December 14, 2017)

water, and telecommunications public utilities (identified in Staff's R&R) operating in Kansas;

(b) Requiring, through the use of an Accounting Authority Order (AAO), certain regulated public utilities (identified in Staff's R&R) that are taxed at the corporate level to track and accumulate in a deferred revenue account, with interest compounded monthly at the most current Commission-approved customer deposit interest rate, the reduction in their regulated cost of service that would occur in the event that a new lower federal income tax rate is signed into law. These deferrals should take effect at the same time as the new federal corporate tax rate change and the calculations should be performed using the cost of service data that was used to set the utilities' last Commission-approved revenue requirement (including any line-item surcharges that contain a provision for regulated income tax expense) or Kansas Universal Service Fund (KUSF) determination; and

(c) Confirming that the Commission's intention regarding the AAO is to preserve any potential tax benefits so that they may be evaluated in the context of a comprehensive evaluation of the reasonableness of the utilities' rates or KUSF distributions as well as notifying affected public utilities that this portion of their rates or KUSF distributions should be considered interim subject to refund until the Commission has an opportunity to review the reasonableness of the utilities' rates or KUSF distributions on a comprehensive and case-by-case basis. Lastly, the Commission should confirm that it intends to capture the reduction in Accumulated Deferred Income Tax (ADIT) balances that will occur in the event that a lower

corporate federal income tax rate takes effect, over time, in a manner that complies with Internal Revenue Service (IRS) Tax Normalization Rules.²

2. CURB is filing its Petition to Intervene contemporaneously with this Response in Support of Staff's Motion to Open General Investigation and Issue Accounting Order Regarding Federal Tax Reform and Report and Recommendation.

3. As stated in its Petition to Intervene, CURB believes that its intervention and participation in this docket is necessary to protect the rights of residential and small commercial ratepayers with respect to the matters set forth in the Petition filed herein. Although the Commission has not granted CURB's Petition to Intervene, CURB files this response, subject to being granted intervention in this docket, in order to preserve its rights.

4. CURB has analyzed the Report and Recommendation (R&R) as well as the Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform from the perspective of residential and small commercial ratepayers and has determined that Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform and the recommendations, in its R&R , are reasonable and in the best interests of Kansas residential and small commercial ratepayers.

5. CURB advises the Commission that the Tax Cut and Jobs Act, which is the subject of Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform, has become law and will be effective as of January 1, 2018. Therefore, the relief set forth in Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform (Staff's Motion) is now ripe for determination by the

² Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform. (December 14, 2017)

Commission. CURB believes that the public interest requires that the Commission grant the relief outlined in Staff's Motion.

6. Moreover, CURB believes that the relief set forth in Staff's Motion, if granted by the Commission, logically should allow the Commission to lawfully and reasonably capture the reduction in ADIT balances that will occur due to the reduction in corporate federal income tax brought about by the Tax Cut and Jobs Act. However, CURB also believes that the complaint that was filed on December 14, 2017, by the Kansas Industrial Consumers' Group (KIC) against all Kansas electric and gas utilities seeks relief that is alternative and supplemental to the relief sought in Staff's Motion. Furthermore, CURB believes that any order issued by the Commission regarding the KIC complaint should relate back to January 1, 2018 to obviate Kansas ratepayers payment of unreasonable, unjust and unlawful rates due to utility tariffs which are currently composed of ADIT in excess of that required by law. Therefore, CURB believes it to be prudent (due to the extraordinary circumstances brought about by the Tax Cut and Jobs Act) to file with the Commission a complaint against all regulated utilities listed in Staff's Motion. CURB's complaint, that it intends to file on or before January 1, 2018, will seek relief that is alternative and supplemental to Staff's Motion and which CURB believes is in the public interest. CURB will work with the Commission Staff and other parties to agree upon a procedural schedule and such other matters as may be necessary to allow the Staff's Motion and CURB's complaint to be heard in an administratively efficient manner.

7. CURB supports Staff's request for the opening of a general investigation in order to analyze the potential impacts of federal tax reform on Kansas Public utilities as well as Staff's request for the Commission to issue an Accounting Authority Order (AAO) requiring certain regulated public utilities (identified in Staff's R&R) that are taxed at the corporate level to track

and accumulate in a deferred revenue account, with interest compounded monthly at the most current Commission-approved customer deposit interest rate, the reduction in their regulated cost of service that would occur in the event that a new lower federal income tax rate is signed into law. These deferrals should take effect at the same time as the new federal corporate tax rate change and the calculations should be performed using the cost of service data that was used to set the utilities' last Commission-approved revenue requirement (including any line-item surcharges that contain a provision for regulated income tax expense) or Kansas Universal Service Fund (KUSF) determination.

8. Further, CURB supports Staff's request confirming that the Commission's intention regarding the AAO is to preserve any potential tax benefits so that they may be evaluated in the context of a comprehensive evaluation of the reasonableness of the utilities' rates or KUSF distributions as well as notifying affected public utilities that this portion of their rates or KUSF distributions should be considered interim subject to refund until the Commission has had an opportunity to review the reasonableness of the utilities' rates or KUSF distributions on a comprehensive and case-by-case basis.

9. Lastly, the Commission should confirm that it intends to capture the reduction in Accumulated Deferred Income Tax (ADIT) balances that will occur in the event that a lower corporate federal income tax rate takes effect, over time, in a manner that comports with the Internal Revenue Service (IRS) Tax Normalization Rules.

10. CURB believes that these recommendations will result in a direct benefit to the residential and small commercial ratepayers of the State of Kansas, among others and is in the public interest.

WHEREFORE, CURB respectfully recommends that the Commission grant Staff's Motion to Open General Investigation and Issue Accounting Authority Order Regarding Federal Tax Reform as well as adopt its Report and Recommendations and provide such other relief as the Commission deems just and proper.

Respectfully submitted,



David W. Nickel, Consumer Counsel #11170

Thomas J. Connors, Attorney #27039

Todd E. Love, Attorney #13445

Citizens' Utility Ratepayer Board

1500 SW Arrowhead Road

Topeka, KS 66604

(785) 271-3200

d.nickel@curb.kansas.gov

tj.connors@curb.kansas.gov

t.love@curb.kansas.gov

VERIFICATION

STATE OF KANSAS

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SS:

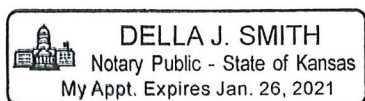
COUNTY OF SHAWNEE

)

I, Todd E. Love, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.


Todd E. Love

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2017.





Notary Public

My Commission expires: 01-26-2021.

CERTIFICATE OF SERVICE

18-GIMX-248-GIV

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service or placed in the United States Mail, postage prepaid, on this 22nd day of December, 2017, to the following:

MONTE PRICE
AMARILLO NATURAL GAS COMPANY
2915 I-40 WEST
AMARILLO, TX 79109
mwprice@anginc.net

ALAN DEGOOD
AMERICAN ENERGIES GAS SERVICE,
LLC
PO BOX 516
CANTON, KS 67428
degood@americanenergies.com

DAWN GRAFF, Midstream Accounting
Manager
ANADARKO NATURAL GAS COMPANY
1099 18th Street
DENVER, CO 80202
dawn.graff@anadarko.com

ATTN: GAS SERVICE CONTACT
ATMOS ENERGY CORPORATION
5420 LBJ FWY STE 1600 (75240)
P O BOX 650205
DALLAS, TX 75265-0205
karen.wilkes@atmosenergy.com

JENNIFER G. RIES, VICE PRESIDENT,
RATES AND REGULATORY AFFAIRS-
COLORADO/KANSAS
ATMOS ENERGY CORPORATION
1555 BLAKE ST STE 400
DENVER, CO 80202
jennifer.ries@atmosenergy.com

JAMES LLOYD
BARTON HILLS WATER DISTRICT
66 NE 20 RD
GREAT BEND, KS 67530-9703
(US Mail)

MARGARET A.
(MEG) MCGILL, REGULATORY
MANAGER
BLACK HILLS/KANSAS GAS UTILITY
COMPANY, LLC D/B/A BLACK HILLS
ENERGY
1102 EAST 1ST ST
PAPILLION, NE 68046 (US Mail)

BRENT CUNNINGHAM, VICE PRESIDENT
& GENERAL MANAGER
CUNNINGHAM TELEPHONE COMPANY,
INC.
220 W MAIN
PO BOX 108
GLEN ELDER, KS 67446
brent@ctctelephony.tv

TRENT BOALDIN
ELKHART TELEPHONE COMPANY, INC.
610 S COSMOS
PO BOX 817
ELKHART, KS 67950
tdboaldin@epictouch.com

JOHN R. IDOUX, DIRECTOR KANSAS
GOVERNMENTAL AFFAIRS
EMBARQ MISSOURI D/B/A CENTURYLINK
600 NEW CENTURY PKWY
NEW CENTURY, KS 616031
john.idoux@centurylink.com

CHRIS KRYGIER, DIRECTOR, RATES
AND REGULATORY AFFAIRS (CENTRAL
REGION)
EMPIRE DISTRICT ELECTRIC COMPANY
602 S JOPLIN AVE
JOPLIN, MO 64801
Chris.Krygier@LibertyUtilities.com

MICHAEL J. MURPHY, PRESIDENT &
MANAGER
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
mmurphy@gorhamtel.com

SCOTT A. STRAHM, RESIDENT AGENT
GREEN ACRES MOBILE HOME PARK,
LLC
715 MERCHANT
EMPORIA, KS 66801-2809
scott@blirentals.com

ROBERT A. KOCH, PRESIDENT/GEN
MGR
H&B COMMUNICATIONS, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
robkoch@hbcomm.net

RICHARD BALDWIN, PRESIDENT
HOME TELEPHONE COMPANY, INC.
211 S MAIN ST
BOX 8
GALVA, KS 67443
rbaldwin@homecomminc.com

MARK WADE, VP OF OPERATIONS
J.B.N. TELEPHONE COMPANY, INC.
PO BOX 111
HOLTON, KS 66436
mark@havalandtelco.com

ROBERT J. HACK, LEAD REGULATORY
COUNSEL
KANSAS CITY POWER & LIGHT
COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST
31ST FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
ROB.HACK@KCPL.COM

MICHAEL NEELEY, LITIGATION
COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
m.neeley@kcc.ks.gov

JANET BUCHANAN, DIRECTOR-
REGULATORY AFFAIRS
KANSAS GAS SERVICE, A DIVISION OF
ONE GAS, INC.
7421 W 129TH ST
OVERLAND PARK, KS 66213-2713
janet.buchanan@onegas.com

HARRY LEE, PRESIDENT/GENERAL
MANAGER
LAHARPE TELEPHONE COMPANY,
INC. D/B/A LAHARPE LONG DISTANCE
109 W 6TH ST
PO BOX 123
LA HARPE, KS 66751
harry.lee@laharpetel.com

DIANTHA STUTESMAN, Business
Manager, President and Partner
MADISON TELEPHONE COMPANY, INC.
117 NORTH THIRD
P O BOX 337
MADISON, KS 66860
mtn.diantha@gmail.com

KATHY BILLINGER, CEO/GENERAL
MANAGER
PEOPLES TELECOMMUNICATIONS, LLC
208 N BROADWAY
PO BOX 450
LA CYGNE, KS 66040
KATHY@PEOPLESTELECOM.NET

JANET BATHURST, MANAGER
S&A TELEPHONE COMPANY, INC.
413 MAIN ST
PO BOX 68
ALLEN, KS 66833
jbathurst@satelephone.com

KENDALL S. MIKESELL, PRESIDENT
SOUTHERN KANSAS TELEPHONE
COMPANY, INC.
112 S LEE ST
PO BOX 800
CLEARWATER, KS 67026-0800
kendall.mikesell@sktcompanies.com

RANDY MAGNISON, EXEC VP & ASST
CEO
SOUTHERN PIONEER ELECTRIC
COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0430
rmagnison@pioneerelectric.coop

MIKE BREUER, PRESIDENT
SUBURBAN WATER CO.
P.O. BOX 588
BASEHOR, KS 66007-0588
MIKE@SUBURBANWATERINC.COM

MIKE MCEVERS
TEXAS-KANSAS-OKLAHOMA GAS, L.L.C.
PO BOX 1194
DALHART, TX 79022
MIKE@TKOGAS.COM

MARK M. GAILEY, PRESIDENT &
GENERAL MANAGER
TOTAH COMMUNICATIONS, INC.
101 MAIN ST
PO BOX 300
OCHELATA, OK 74051-0300
mmgailey@totelcsi.com

BENJAMIN FOSTER, PRESIDENT & CEO
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
ben.foster@tvtnet.net

JOHN R. IDOUX, DIRECTOR KANSAS
GOVERNMENTAL AFFAIRS
UNITED TELEPHONE CO. OF
KANSAS D/B/A CENTURYLINK
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
john.idoux@centurylink.com

JOHN R. IDOUX, DIRECTOR KANSAS
GOVERNMENTAL AFFAIRS
UNITED TELEPHONE COMPANY OF
EASTERN KANSAS D/B/A CENTURYLINK
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
john.idoux@centurylink.com

JOHN R. IDOUX, DIRECTOR KANSAS
GOVERNMENTAL AFFAIRS
UNITED TELEPHONE COMPANY OF
SOUTHCENTRAL
KANSAS D/B/A CENTURYLINK
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
john.idoux@centurylink.com

JEFF WICK, PRESIDENT/GENERAL
MANAGER
WAMEGO TELECOMMUNICATIONS
COMPANY, INC.
1009 LINCOLN
PO BOX 25
WAMEGO, KS 66547-0025
jwick@wtcks.com

JEFFREY L. MARTIN, VICE PRESIDENT,
REGULATORY AFFAIRS
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
JEFF.MARTIN@WESTARENERGY.COM

GREGORY REED, CEO
WHEAT STATE TELEPHONE COMPANY,
INC.
PO BOX 320
UDALL, KS 67146
greg.reed@ensignal.com

BRIAN BOISVERT, GENERAL MANAGER
WILSON TELEPHONE COMPANY, INC.
2504 AVE D
PO BOX 190
WILSON, KS 67490-0190
boisvert@wilsoncom.us

SCOTT GRAUER
WILSON TELEPHONE COMPANY, INC.
2504 AVE D
PO BOX 190
WILSON, KS 67490-0190
sgrauer@wilsoncom.us

KATHY PRICE, GENERAL MANAGER*
ZENDA TELEPHONE COMPANY, INC.
208 N MAIN
PO BOX 128
ZENDA, KS 67159
kprice@zendatelephone.com



Della Smith
Administrative Specialist