

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

In the Matter of a General Investigation to)
Fully Investigate the Parameters and)
Intricacies of a Customer Opt-Out) Docket No. 19-GIME-012-GIE
Program for Advanced Metering)
Infrastructure Digital Electric Meters.)

CURB'S REPLY COMMENTS

COMES NOW, The Citizens' Utility Ratepayer Board ("CURB") and submits its reply comments pursuant to the schedule set forth in the State Corporation Commission of the State of Kansas ("Commission") *Order Adopting Proposed Procedural Schedule* ("Procedural Schedule") issued in this docket¹, and states as follows:

I. Background

1. This docket arises out of a multi-year investigation in which a number of formal complaints were filed, and consolidated, against Westar Energy, Inc. and Kansas Gas and Electric Co. ("Westar") and Kansas City Power and Light Company ("KCP&L") in Docket No. 15-WSEE-211-COM, et al (collectively, "Complaint Dockets"), where complainants raised various concerns regarding KCP&L's and Westar's use of Advanced Metering Infrastructure ("AMI" or "Smart") meters. These complaints were dismissed by the Commission for failure to state a claim upon which relief could be granted.² However, the Commission determined that it would like more discussion around the issue of AMI customer opt-out programs and ordered Commission Staff ("Staff") to open a general investigation to investigate AMI opt-out programs.³

¹ See Order Adopting Proposed Procedural Schedule (October 16, 2018).

² Docket No. Docket No. 15-WSEE-211-COM, et al, Order, p. 10 ("Complaints Order") (April 5, 2018).

³ *Id.* at p. 15.

2. On July 24, 2018, the Commission opened this docket to investigate the parameters and intricacies of an AMI opt-out program.⁴ The Commission ordered Westar, KCP&L, The Empire Electric Company, a Liberty Utilities Company (“Empire”), and Southern Pioneer Electric Company (“Southern Pioneer”) to be made a party to this proceeding.⁵

3. The Commission adopted Staff’s four parameters recommended for review and comment. Those parameters are as follows:

- a. The types of meters that would be preferred in a meter opt-out program;
- b. The installation costs associated with each meter type and/or billing strategy;
- c. The operating costs associated with each meter type and/or billing strategy; and
- d. The effects of economy of scale on the costs of an opt-out program.⁶

4. On July 25, 2018, CURB filed its petition to intervene and the Commission granted the same on August 9, 2018.⁷

5. On November 16, 2018, KCP&L and Westar, Southern Pioneer, CURB, Staff, Empire, and Kansas Electric Cooperatives, Inc. (“KEC”) filed their Initial Comments in this docket.

6. KCP&L and Westar recommended that the Commission not require utilities in Kansas to establish an opt-out program arguing that it would not be in the public interest.⁸ Particularly, KCP&L and Westar argued that an AMI opt-out program would not be in the public interest because it would increase costs and would cause an administrative burden that would provide no safety or other benefits to customers or the public.⁹ Moreover, KCP&L and Westar

⁴ Order Opening General Investigation, p. 2 (Order) (July 24, 2018).

⁵ *Id.*

⁶ *Id.* at p. 3.

⁷ CURB’s Petition to Intervene (July 25, 2018); Order Granting CURB’s Petition to Intervene (August 9, 2018).

⁸ See Kansas City Power & Light Company and Westar Energy, Inc. Initial Comments, pp. 6-7 (“Westar and KCP&L Initial Comments”) (November 16, 2018).

⁹ *Id.* at p. 7.

argue that an AMI opt-out program would result in a number of negative consequences, to include, but not limited to: “[t]he utility would have to purchase special meters that do not have AMI capability; [t]he utility would have to establish special meter reading routes and cycles to accommodate opt-out customers – additional administrative time and other costs would be incurred to manage the billing for these customers; [t]he utility would incur additional costs to dispatch meter readers to travel to, and read the meter of, each opt-out customer. . . .”¹⁰

7. Like KCP&L and Westar, Southern Pioneer recommended that the Commission not require utilities in Kansas to establish an AMI opt-out program for customers.¹¹ Southern Pioneer argued that an AMI opt-out program would result in operational disruption and increased inefficiencies and costs, while also resulting in a loss of benefits and optimization of technology for its customers.¹² In the event that the Commission allows an AMI opt-out program, Southern Pioneer requested that the Commission “limit it to residential customers and allow utilities to (i) determine on an individual basis those meters that best fit the specific utility’s opt-out program, and in no event should an opt-out program require a utility to replace an existing AMI meter with an analog meter; and (ii) recover the prudently incurred costs of an opt-out program from participating customers by way of an installation charge (if applicable) and monthly service charges.”¹³

8. Staff also recommended the Commission not require utilities in Kansas to establish an AMI opt-out program.¹⁴ From Staff’s perspective, a special metering opt-out program would not be in the public interest. Staff believes that use of AMI meters are reducing or controlling a

¹⁰ *Id.*

¹¹ *See* Initial Comments of Southern Pioneer Electric Company, pp. 5-6 (Southern Pioneer Initial Comments) (November 16, 2018).

¹² *Id.*

¹³ *Id.* at p. 13.

¹⁴ Commission Staff Initial Comments, p. 2 (Staff’s Initial Comments) (November 16, 2018).

portion of utility operating costs and providing accurate and timely usage data.¹⁵ Staff also believes that health dangers allegedly caused by Radio Frequency emissions were unproven and only a small portion of customers have complained about AMI meters.¹⁶ Although Staff recommends against an AMI opt-out program, Staff also acknowledged that the Commission has the authority to implement such a program if it chooses, and in the event that the Commission does decide to implement such a program that the opt-out customers should bear the burden of the costs associated with implementing and maintaining the program.¹⁷

9. KEC recommended that the Commission allow each utility to decide whether to implement a utility opt-out program based on the specific characteristics of each utility and the needs of its customers.¹⁸ However, should the Commission require each utility to implement an opt-out program, KEC recommended, like Staff, that those costs be borne by the opt-out customer(s).¹⁹ KEC also recommended that if an AMI opt-out program is mandated the Commission “should not mandate the replacement of AMI meters with analog meters but allow the utility to continue utilizing digital meters with the option of limiting or disabling the two-way communication components within the meter.”²⁰

10. Empire generally supported the use of AMI meters in its initial comments and advocated for the installation of AMI meters throughout the Company’s system.²¹ More specifically, Empire contended that there would be costs associated with an AMI opt-out program,

¹⁵ *Id.* at p. 2.

¹⁶ *Id.*

¹⁷ *Id.* at p. 3.

¹⁸ Initial Comments of Kansas Electric Cooperatives, Inc., p. 11 (KEC Initial Comments) (November 16, 2018).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See* The Empire District Electric Company's Comments in Response to Commission Order (November 19, 2018).

and that those costs would be avoided if AMI meters were installed, exclusively, within its service territory.²²

11. CURB did not take a position in its initial comments because it believed that the utilities were in a better position to answer Staff's four parameters which were adopted by the Commission; however, CURB reserved its right to respond to other parties initial comments, in its reply comments, pursuant to the Commission's procedural schedule in this docket.²³

II. CURB's Reply Comments

12. CURB believes that the Commission has the authority, and evidentiary basis, to craft and establish, or alternatively, not establish, an AMI opt-out program in Kansas. From CURB's perspective, CURB does not advocate for any one specific policy option over another regarding the issue of AMI opt-out programs. Rather, CURB believes the Commission can choose from the several options that parties have posited in the record (which CURB summarized above). In an effort to be helpful to the Commission, CURB will simply address the issue of AMI opt-out programs generally, and give the Commission a range of reasonable options that CURB believes are supported by the record.

13. To start, CURB believes that Staff, and the utilities in this docket, have raised reasonable concerns regarding AMI opt-out programs. CURB acknowledges that if customers are allowed to participate in an AMI opt-out program that it could increase costs to the utilities and could also be administratively burdensome. CURB also agrees that an AMI opt-out program could result in the loss of optimization of technology that could result in fewer benefits for customers, including residential customers, in the long run. Given these concerns, CURB certainly believes the Commission has the evidentiary basis not to require Kansas utilities to establish an AMI opt-

²² *Id.* at p. 2.

²³ CURB's Initial Comments, pp. 1-2 (November 16, 2018).

out program for customers. CURB certainly believes there is merit to the arguments raised by parties that a required metering opt-out program may cause unreasonable costs to the utilities and potentially other customers (who are not opting out), and unlawful subsidization, depending on how the program is structured.

14. Next, should the Commission determine that an AMI opt-out program is in the public interest, CURB believes that the Commission has broad flexibility in determining how to implement such a program. At the very least, CURB believes that opt-out customers should bear the burden of the costs associated with implementing and maintaining the AMI opt-out program. This prevents opt-out customers from being unlawfully subsidized by non-opt-out customers as to the costs associated with the AMI opt-out program that non-opt-out customers will most certainly not receive any benefits from. Staff and nearly all of the utilities in this docket agree with this perspective.

15. Lastly, CURB believes that if the Commission wanted to implement an AMI opt-out program that it is reasonable to consider KEC's position that would allow each utility to decide whether to implement a utility opt-out program based on the specific characteristics of each utility and the needs of its customers. CURB believes this position is reasonable in that it does not mandate an AMI opt-out program, but still allows management of each utility the freedom to implement an opt-out program if it makes sense for each individual utility and its customers to do so.

16. **WHEREFORE**, CURB respectfully submits its Reply Comments for the Commission's review and consideration and such other relief as the Commission deems just and proper.

Respectfully submitted,



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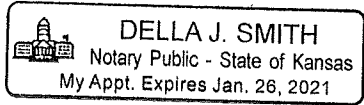
VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

I, Thomas J. Connors, 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.


Thomas J. Connors

SUBSCRIBED AND SWORN to before me this 18th day of January, 2019.




Notary Public

My Commission expires: 01-26-2021.

CERTIFICATE OF SERVICE

19-GIME-012-GIE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 18th day of January, 2019, to the following:

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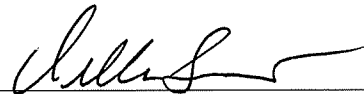
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