

Presentation Regarding the Cold Weather Rule
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INTRODUCTION

Good morning, Mr. Chairman and members of the committee. My name is Paula Johnson, and I am an Assistant General Counsel for the Kansas Corporation Commission (“KCC”). I am here today to let you know how issues regarding the Cold Weather Rule have been dealt with since the introduction of House Bill 2186 in the 2003 Legislative Session.

BACKGROUND

Let me begin by providing you some background regarding the Cold Weather Rule as a whole. The Cold Weather Rule was first enacted in 1980, in response to the Public Utility Regulatory Policies Act, which required the KCC to consider adoption of standards which would prohibit termination of gas and electric service: (1) except upon reasonable prior notice and opportunity to dispute the reasons for termination and (2) when termination would be especially dangerous to health and the consumer establishes his inability to pay or ability to pay only in installments. (Docket No. 114,337-U, August 21, 1979 Order, p. 4-5.) The Cold Weather Rule has undergone three somewhat substantive changes since that time, in 1983, 1989, and 2002. In each of those examinations of the Cold Weather Rule, the KCC kept in mind the same original goal and policy in the Rule’s adoption, as most clearly articulated in 1983: “(A) to insure that human health and safety are not unreasonably endangered during cold weather months; (B) to make financial planning of utility bills for Kansas customers more manageable and predictable; and (C) to provide an orderly and effective method for payment of utility bills.” (Docket No. 114,337-U, October 14, 1983 Order, p. 7.)

Because of the intricate mix of issues regarding health, human safety, corporate finance, and individual finance, the Cold Weather Rule always provides vigorous discussions from many perspectives. House Bill 2186, introduced in the 2003 Legislative Session, was no exception. Ultimately, this Committee requested the Commission hold a roundtable discussion in order to more fully flesh out the issues for all parties interested in the operation and effects of the Cold Weather Rule.

ROUNDTABLE

The Commission held the roundtable on May 27, 2003. More than 30 people made comments and actively participated in this discussion. One point that all participants agreed on is that the Cold Weather Rule is necessary and has played a valuable and essential role in protecting health and human safety over the past 20 years. One issue raised was whether the Cold Weather Rule should be modified in any respect. A broad

range of views was presented, from strong recommendations to make no changes to the Cold Weather Rule, to a suggestion that a three-tier ratchet payment system be imposed so that customers would feel financial distress more quickly, and perhaps seek aid or budget counseling earlier. At the conclusion of the roundtable, there was a consensus that the Cold Weather Rule issues are more complex than many participants had realized and that the Cold Weather Rule can be better monitored as an administrative regulation instead of a statute. This consensus was agreed to by the social service agencies that had supported House Bill 2186 and by the Legislators in attendance. There was also an understanding that people and entities affected by the Cold Weather Rule often have contradictory interests and goals, and that there is no single answer that would satisfy everyone's concerns.

Several utilities emphasized the time and expense that was required of them in 2002, when the Commission reviewed all provisions of the Cold Weather Rule and made a number of adjustments. In order to be applied fairly and consistently across the state, Cold Weather Rule requirements and provisions must be clear and easy for customers and company personnel to understand. Any changes in the Cold Weather Rule must balance possible benefits against known and anticipated costs, such as enhanced systems upgrades, additional training, and customer education and notification costs.

Discussion clarified that many of the concerns of the social service agencies were due to their limited funds and the simple fact that many families do not have enough money to pay their bills. The participants also recognized that solutions may lie in areas other than the Cold Weather Rule, such as better weatherization of dwellings. Both the social service agencies and the utilities commented on their good relationships and willingness to work together to help customers at as early a stage as possible. The Commission, while not directly involved in these areas, remains ready to assist in any way.

As part of the formal Cold Weather Rule docket in 2002, the KCC investigated and reviewed the Cold Weather Rule programs and policies of all the other states. Most states with potential severe winter weather have a program comparable to the Kansas Cold Weather Rule to protect residential customers. Kansas policies and procedures seem to be in the middle of the range of the states in terms of cost and intrusiveness. The Commission's Cold Weather Rule has stronger protections than some states, but does not have the complicated, more customer-specific processes that several states have implemented. One participant at the roundtable complimented Kansas on the simplicity of its Cold Weather Rule, and several people noted the frustrations and inequities that can occur when a program is difficult to explain to customers or is subject to different interpretations.

After hearing the discussion and considering the issues addressed by the participants, the Commission concluded that there was no compelling need to change the Cold Weather Rule. The effects of the latest adjustments still had not been fully determined, and the primary concerns raised at the roundtable were not specific to implementation of the Cold Weather Rule. The Commission continues to believe that the Cold Weather Rule does an admirable job of balancing the conflicting interests and has served Kansans well for

many years. While escalating bad debt is a concern, this issue is addressed for utilities by recovery through rates, and the Commission does not view the Cold Weather Rule as a means of debt collection. The Cold Weather Rule protects citizens from freezing temperatures and avoids the need for those with financial difficulties to resort to unsafe heating practices. It is intended to promote the public safety and health and to protect the children of those who have payment arrearages for any reasons during the winter months.

CONCLUSION

The KCC has long dealt with the Cold Weather Rule and its consequences, intended or unintended. While no one system has yielded perfect results, the KCC believes that it has upheld its basic policy of protecting health and human welfare first, while trying to encourage fiscal responsibility. The Commission will continue to closely monitor the Cold Weather Rule and to consider modifications when necessary. In the meantime, the Commission continues to examine other options in the appropriate context to address related issues as they may arise.¹

¹ The Commission is currently considering the possibility of a low income assistance program in a generic docket, which examines one of the social service agencies' more specific concerns. You may find a link to the order opening this investigation at the following web address:
<http://www.kcc.state.ks.us/docket/cal.html?docket=04-GIMX-531-GIV>.