

KC STAR-P.1

Critics urge regulators to get tough on utilities

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Gas bills in the last few months have never been higher or less accurate. So where are the state regulators?

That's a question many consumers — and a former governor long suspicious of utilities — are asking as the winter winds down.

"Those utilities will go crazy with their rates as long as they can," former Missouri Gov. Joe Teasdale said. "I didn't trust them while I was governor. And I don't today."

Missouri Gas Energy and Western Resources have sent out at least 140,000 incorrect bills.

There have been astronomical increases in natural gas rates, which state regulators say they are powerless to address.

But part of the problem, say many industry watchers and experts, is today's state regulators. They seem less willing to take on the gas companies.

"They don't want to go against the flow," said Martha Hogerty, Missouri public counsel. "In years past, they were much more aggressive."

Indeed, the 1970s and 1980s led to a dizzying round of rate increases by energy utilities because of the Arab oil embargo and runaway inflation. Angry consumers spawned regulatory

See **REGULATORS, A-10, Col. 1**



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51

Continued from A-1

bodies with a strong mandate to watch out for the consumer, first and foremost.

Today's regulators are somewhat confused about their role, said Walker Hendrix, consumer counsel with Kansas' Citizens' Utility Ratepayer Board. The reason, he says, is deregulation.

Gas and phone companies are all, to some degree, being freed to compete with each other. Long-distance phone companies soon will offer local telephone service. At some point, Kansas City residents will be able to choose a gas supplier from several gas utilities.

That's caused regulators not only to wonder about their mission but also to process more paperwork, not less, during the transition. Meanwhile, the staffs have not grown to keep up with the workload.

More paperwork

Karl Zobrist, chairman of the five-member Missouri commission, said commissioners still manage to antagonize powerful utilities, but he concedes regulators could be tougher.

"As a matter of regulation, I don't think we have enough auditors to keep on these companies all the time," he said. But he added that Missouri legislators would not want to see the commission expand.

In Kansas, top regulator Tim McKee said a more vigilant Kansas Corporation Commission would not have prevented the recent billing problems.

"We're happy to examine problems when they come to our attention," McKee said.

That's not good enough, in Hogerty's opinion.

"That's really a problem with regulators," she said. They have to act in a proactive manner, she said.

If state regulators have become more reactive — and less proactive — it is because they are increasingly swamped with new kinds of regulatory work.

In Kansas, for instance, there

were 707 legal regulatory filings last year, up from 379 in 1990. The bulk of the increase dealt with competition in local telephone service authorized by Congress last year.

In recent months, regulators have been certifying new local telephone companies. The regulators have also had to review the startups' efforts to gain access to the networks of local phone monopolies such as Southwestern Bell Telephone Co.

Commissions also are increasingly preoccupied with dissecting megadeals, such as the proposed merger of Western Resources and Kansas City Power & Light Co.

As a result, regulatory commissions have less time and resources to devote to the traditional policing of utilities.

Staffing woes

In fact, the army of lawyers, accountants and engineers in the trenches regulating gas, electric and phone companies has not grown in Missouri and has shrunk in Kansas.

The Kansas commission is at 213 employees, down from 233 in 1990, said spokeswoman Rosemary Foreman.

The Missouri commission employs 205 — relatively unchanged in the last decade, according to Cecil Wright, commission executive secretary.

Compounding the challenges has been turnover in the commissioners' ranks. The chairmen of the utility commissions in Kansas and Missouri have held their jobs for about one year.

The chairmen and their colleagues were not on board during the great regulatory battles of the 1970s and 1980s, when some companies sought — and were denied — rate hikes on the order of 52 percent.

Zobrist has been chairman since January 1996. He is a former partner in the Kansas City law firm of Blackwell Sanders Matheny Weary & Lombardi.

M. Dianne Drainer, a vice chairman, was appointed one year ago. Earlier, she was manager of re-

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search and evaluation for the Missouri Department of Social Services.

All three members of the Kansas Corporation Commission — McKee, Susan Seltsam and John Wine — have been appointed within the last three years.

Opinions are mixed on how well the commissions are coping.

"The job has gotten tougher — there is so much more for them to do," said John Hoffman, Sprint Corp. senior vice president. "There are brighter, smarter people in the job."

But Steve Weber, an AT&T attorney based in Jefferson City, notes the considerable turnover in the Missouri commission "has been pretty traumatic."

What's ahead

The trauma these days, of course, concerns the surge in public anger about gas bills. Both Missouri and Kansas regulators are reacting, prodding their staffs to develop policies to prevent a repeat episode.

"We are very concerned, if not outraged, about the billing problems ourselves," Zobrist said.

The governors of Kansas and Missouri, through their spokesmen, say they are monitoring developments.

The regulators are considering new ways to shield consumers from sudden natural-gas price increases, and they want bills to be precise.

Right now, natural gas distribution companies such as Missouri

Gas Energy can adjust their rates — as often as every few weeks — to recover the cost of higher-priced gas purchased from a supplier.

In turn, say some critics, local gas utilities have no incentive to get the lowest priced gas because costs are fully passed on to consumers.

In response, Kansas regulators may require gas utilities to get a minimum of three bids from suppliers before buying gas, McKee said.

McKee also suggests that the utilities be prevented from getting into gas supply contracts for longer than five years, so they can take advantage of future price drops.

Missouri is considering ways of keeping winter gas rates down somewhat by allowing gas rates to not fall as steeply in the summer, Zobrist said.

Despite the problems, regulators are not likely to develop radical policy changes because they reflect the times in which they serve, observers say. In the '70s, consumers were angry. But even with the anger today, deregulation is here to stay. Regulators will be less inclined to micromanage the utilities.

Ultimately, say experts, the regulators, corporations and consumers must prepare for a new world of competitive utility services.

"We're headed into an era that's new for everybody. It needs flexibility on everybody's part," said Richard Pettway, finance professor at the University of Missouri-Columbia.

Teasdale believes that regulators may be underestimating the public's appetite for continued strong utility regulation. Consumer anger with rising utility bills helped elect "Walkin' Joe" governor in 1976.

"If I were governor, I would be embarrassed that the (utility) commission is acting so gingerly," he said. "For some reason, the PSC never has had the guts to stand up to the utilities. They never had."