

Citizens' Utility Ratepayer Board

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SENATE UTILITIES COMMITTEE **H.B. 2374**

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March 17, 2003

Chairman Clark and members of the committee:

Thank you for this opportunity to appear before you today and offer testimony on H.B. 2374. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

While CURB does not favor the existing security cost recovery law as expressed in K.S.A. 66-1233, CURB respects that it is the law and is participating in the process before the KCC. CURB does want to make clear to the Committee its position, as filed at the Kansas Corporation Commission, as related to recovery of security costs.

- CURB does believe that residential and small commercial ratepayers are concerned about the safety and security of the utility infrastructure in the state.
- Residential and small commercial customers are likely willing to pay some fee for prudently incurred necessary security expenditures.
- CURB strongly believes that residential and small commercial customers expect that any security fee or charge placed on a utility bill has been thoroughly reviewed by the Commission and found to be prudently incurred.
- CURB strongly believes that residential and small commercial customers expect that any security fee or charge placed in a utility bill will not be duplicative of charges that are already contained in base rates.
- CURB strongly believes that residential and small commercial customers expect that any security fee or charge that they are expected to pay is also being shared with all other utility system customers in the most equitable manner possible.

However CURB is strongly opposed to what H.B. 2374 proposes to do. For the following three reasons, CURB believes that H.B. 2374 moves the existing law to a new unprecedented level that is not in the interest of Kansas utility consumers and should not be the policy of this State.

- The level of secrecy contained in Section 3 (a)(1). CURB does acknowledge that many elements of a utility's security plan are sensitive and should rightly be accorded confidential protections. CURB has no desire to advertise each and every aspect of a utility's plan to deal with security or how security measures are being implemented. However, secrecy must also be balanced against a consumers right to know why, and by how much utility rates are increasing. CURB does not believe that disclosing the name of the utility, the total amount of money the utility is requesting as a rate increase and the proposed method of recovery the utility is proposing represents information containing the type of specificity that warrants being withheld from the public. There is nothing inherently sensitive in this information. CURB believes that these three elements are the minimum information necessary to meet notice and due process requirements.
- Hiding the rate increase on consumer bills as required by Section 3 (a)(4). If it is the public policy of the State of Kansas that security costs are to be accorded extraordinary rate treatment, including expedited review and expedited recovery of capital expenditures, then this fact should be apparent to consumers when they view their utility bills.
- Expedited recovery of capital expenditures as required by Section 3 (a)(7). CURB believes that capital equipment expenditures for security should be recovered over a time period consistent with the recovery period of like capital equipment in normal rates. CURB understands that new security requirements force a utility to expend money that was not anticipated in the utility's last rate case. CURB also understands that a utility may not want to file a general rate case to get recovery of these security expenditures. The security surcharge in K.S.A. 66-1233 and in this bill allows a utility to begin recovery of, and begin receiving a return on, the expenditures made for security purposes. At the time of the utility's next rate case, the security related capital expenditures can be placed in base rates and the capital recovery will be consistent with other like capital equipment. This method of recovery is consistent with good ratemaking practices, will eliminate confusion over time as to the accounting accorded similar capital assets, will provide the utility with a return of and a return on its expenditures, and will protect consumers from the potential large rate increases caused by expedited recovery of capital expenditures.

If this bill does progress, CURB would offer the following suggestions:

- Add to Sec. 3(a)(4), “*and shall be added to all wholesale and retail rates and contracts.*” CURB cannot stress enough that this language must be added to this bill. CURB is concerned that as written, this bill will result in only tariff customers paying the security costs envisioned by K.S.A 66-1233 and this bill. If extraordinary circumstances dictate that security costs shall be recovered in a manner different than ordinarily applied in rate proceedings, it is not equitable that wholesale and retail customers that purchase utility service under a contract are able to escape these security charges. If it is the public policy of the State of Kansas to authorize extraordinary recovery of security costs, it must also be the public policy of the State of Kansas that all users of the utility system that benefit from the enhanced security pay an equitable portion of the costs, whether service is taken by tariff, or by contract and whether at the wholesale or retail level.
- Language on “Prudent expenditures” is inconsistent and vague. In Section 3 (a)(6), the Commission shall deny any expenditure that the Commission determines “is not prudent or is not for security measures”. This language seems clear. However, Section 3(b) states that “a determination by the Commission of the prudence of an expenditure for security measures *shall* not be based on standard regulatory principles of methods of recovery and shall take fully into account the findings as intent of the legislature as states in Section 2”. The language in Section 3 (b) makes it virtually impossible to argue that any expenditure is not prudent if it is related to security. Arguably, the intent of the legislature expressed in Section 2 is to suspend normal regulatory procedures and allow the utilities to expend whatever is necessary to secure the system. Given that intent, how can anything ever be defined as not a prudent expenditure?
- Section 3 (a)(2). While CURB appreciates the acknowledgement that CURB should be part of this process, and should have a standard protective order issued, CURB does not believe that it is necessary to put this language in statute. The Commission routinely issues protective orders in cases, and CURB certainly anticipates it will do so in security cost case. This language likely stems from the utilities concern about providing CURB security information without the restrictions of a protective order. While this concern is valid, and CURB certainly does not want this information in its possession without a protective order, this can be dealt with in a routine manner by the Commission by making the issuance of a protective order a standard procedure in security dockets. This language can be left in the statute, but CURB does not believe it is necessary.