

Citizens' Utility Ratepayer Board

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David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone:(785) 271-3200
Fax: (785) 271-3116
<http://curb.kcc.state.ks.us/>

HOUSE UTILITIES COMMITTEE

S.B. 414

Testimony on Behalf of the Citizens' Utility Ratepayer Board

By David Springe, Consumer Counsel

March 14, 2006

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 414. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill is overly broad and one sided in favor of the utilities. The "safety and reliability" costs addressed in this bill are no different than those the utilities have dealt with throughout history. The result of this bill will not be increased safety or increased reliability. This bill is simply about allowing the gas utilities in Kansas to increase consumer rates between rate cases without the traditional oversight and due process consumers receive in the a rate case proceeding. The legislature should not create this annual surcharge on consumer bills to pay for normal utility expenditures.

The bill is extremely broad in application. Section 2(f) of the bill sets forth the three types of "natural gas utility plant projects", the cost of which are to be collected through the new surcharge. First, the cost of "mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities" is allowed in the surcharge. For a natural gas utility, the replacement of any existing facility would arguably be safety related and fall within this provision. Second, the cost of "main relining projects, service line insertion projects, joint encapsulation projects and other similar projects extending the useful life or enhancing the integrity of the pipeline system components undertaken to comply with state or federal safety requirements" is allowed in the surcharge. This language would cover the routine maintenance projects that are not the full replacement of facilities as allowed in the above section. Finally, the cost of moving facilities when required by construction or other public works (i.e., road widening) projects ordered by a government entity. This last category of costs are not safety or reliability costs, but are simply costs the utility currently pays between rate cases, but that the utility wants to shift to consumers.

So, to summarize, this bill allows a surcharge on consumer bills between rate cases to recover the costs for every facility the utility **replaces, repairs or moves**. About the only facilities the bill does not cover is for brand new pipes and mains extended to new developments. However, for new developments, often the developer is required to

pay for the extension and is later paid back when the project comes online, reducing the risk for the utility.

While the bill is overly generous in the types of costs that the utility can recover in the surcharge, the bill is overly restrictive in the type of review that is allowed at the commission. The bill allows the surcharge to be used for up to 60 months before the utility must come before the commission for a full cost review in a rate case. During that 60 month period, for the costs to be collected in the surcharge the bill only allows staff (and presumably CURB) to review whether the “underlying costs are in accordance with the provisions” of the act and to “confirm the proper calculation”. The bill specifically states that “no other revenue requirement or ratemaking issues may be examined” in consideration of the petition. (Section 4(b)(2)) In other words, during the 60 month surcharge period, staff and CURB can only check the utility’s math. Staff and CURB are specifically precluded from bringing forth evidence that may result in offsetting cost savings to the proposed rate increases.

The majority of the costs for a natural gas utility in Kansas are already passed directly to consumers or collected in a stable and predictable manner.¹ One of the few protections consumers have is that customer charges and volumetric rates will not change between rate cases, and will only change after thorough review and due process at the commission. The legislature should not be so quick to eliminate this protection for consumers. At a minimum the legislature should ask, what do consumers receive in return? Should utilities be allowed less profit through capped returns on equity? If so, write it into the bill. Should the utilities be required to provide weatherization in return for this surcharge? If so, tie the surcharge to the level of weatherization and write it into the bill. If you are going to place this surcharge on consumer bills, what will you tell consumers they received under this bill?

Customers receive no real benefit from this bill. The gas system in Kansas will be no less safe if the bill is doesn’t pass. The utilities will not go bankrupt. We will have rate cases, as we always have. This bill only benefits the utilities by providing annual rate increases without due process protections for consumers. CURB respectfully requests the Committee not pass this bill.

¹ More than 70% of a gas utility’s costs (natural gas and upstream transportation) are passed directly to customers through the PGA mechanism. Of the remaining 30% of the utility’s costs, close to half are collected through the monthly customer charge, which is a stable and predictable revenue stream. (Utilities routinely ask for the customer charge to be increased in a rate case, hoping to increase the percentage of stable and predictable revenue it receives.) The other half of the 30% is collected from consumer through volumetric charges, when customers are using gas. However, every natural gas utility has a weather normalization adjustment, which serves to eliminate the weather risk from the utility’s revenue stream. (Note: The WNA also benefits consumers) The Commission passes property tax changes through to consumers annually. And recently the Commission changed 30 years of policy and is now allowing natural gas utilities to recover the gas portion of uncollectible bills every year through the PGA mechanism.

Without withdrawing or waiving CURB's outright opposition to this bill, CURB is providing the Committee some suggested mark-up's to the bill to remove what CURB considers some of the most egregious language in the bill. While CURB does not recommend the Committee pass this bill, if the Committee does decide to move forward with a bill of this nature, CURB request that the Committee make the following changes, at minimum, to bring some level o balance and protection back into the bill.

1) To reduce the scope of projects to only those necessary to comply with state and federal safety requirements that were not in effect at the time of the utilities last rate case.

(at page 1 line 40-page 2 line6)

Sec 2. (f) "natural gas utility plant projects" may consist only of the following:

(1) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed pursuant to Commission approval to comply with new or extraordinary state or federal safety requirements that were not in effect at the time of the utility's last rate hearing as replacements for existing facilities ~~that have worn out or are in deteriorated condition;~~

~~(2) Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and~~

2) To eliminate the language precluding the Staff or CURB from bringing forth other evidence that may benefit consumers.

(at page 3 line15- line 23)

Sec. 4 (b)(2) The staff of the commission ~~may~~ **shall** examine information of the natural gas public utility to confirm that the underlying costs are in accordance with the provisions of sections 2 through 4, and amendments thereto, and to confirm proper calculation of the proposed charge. The staff ~~may~~ **shall** submit a report regarding its examination to the commission not later than 60 days after the petition is filed. ~~No other revenue requirement or ratemaking issues may be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 2 through 4, and amendments thereto.~~

3) To add additional language to give the commission some flexibility as to recovery calculation methodologies. This would allow the mechanism used in the last Aquila case.

New Section 5: Notwithstanding the above sections, the Commission shall retain the option of expensing directly on consumer bills, the cost of eligible infrastructure system replacement costs for natural gas utility projects, rather than calculating and imposing the GSRS in a manner that recovers the appropriate pretax revenues as defined in the bill.