

Citizens' Utility Ratepayer Board

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HOUSE UTILITIES COMMITTEE **H.B. 2130**

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

Chairman Holmes and members of the committee:

Thank you for this opportunity to appear before you today and offer testimony on H.B. 2130. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

1) This bill adds three new tests to the existing statutory scheme. The existing statutory scheme requires the KCC to consider "necessity" and "reasonableness of location" when deciding whether to issue a site permit for a proposed transmission line. The bill now requires the Commission to also consider a) benefit to customers in Kansas, b) benefit to customers outside of Kansas, and c) economic development benefits in Kansas. These three additional requirements are nebulous and difficult to define at best. While I am not a transmission engineer, I do understand that building a transmission line in Kansas may have unknown impacts on other transmission lines, both in Kansas and outside of Kansas, by changing line flows. Attempting to evaluate these impacts in reference to the benefits to customers, both in Kansas and outside of Kansas, and on economic development would be difficult, and quite possibly contentious.

2) This bill allows an electric utility, at its option, to create a line item on the consumer bill for transmission delivery charges. While CURB is not necessarily opposed to deconsolidating electric retail rates into component parts, such as a transmission delivery charge, CURB does not believe this bill is necessary to accomplish this task. Any utility can propose this same measure by filing an application at the Commission. In fact, Midwest Energy has deconsolidated its customer electric bills through this KCC process. CURB is concerned that deconsolidating electric bills into component parts may cause some confusion among consumers initially.

3) New Section 2(a) If a electric utility, pursuant to this bill, chooses to create a separate transmission delivery charge, this bill does require, at least initially, that the cost of transmission be removed from existing retail rates such that the sum of the revenue recovered from retail rates and the initial transmission delivery charge is “no lower” than the revenue recovered from retail rates prior to institution of the transmission delivery charge. This language does leave open the possibility that revenue can be higher than the revenue derived from retail rates prior to instituting the transmission delivery charge. Further, after this initial deconsolidation, the bill later specifically precludes a rate review based on the linkage between retail rates and a change in the transmission delivery charge.

4) New Section 2(a) This bill allows the transmission delivery charge to recover “any and all” costs associated with transmission of electric power to retail customers. Transmission costs come in many forms, from pure tariff rates, to ancillary services

charges, to transmission costs included in a power purchase contract, to back office staffing costs related to transmission engineering and billing, to regulatory costs for transmission related filings, to dues from participation in power pools and retail transmission organizations, to computers and software to tracking transmission flows, and so on. Administering what cost is transmission related, and appropriate for inclusion in the transmission charge, verses what costs are not transmission related and therefore appropriate for inclusion in retail rates will be a difficult task going forward. Clearly we would want to guard against costs being included in the transmission delivery charge and then also included in retail rates, for instance personnel costs related to transmission planning. Personnel costs at the local utility level are generally included in retail rates as an expense. Would they now be placed in the transmission delivery charge? Providing more specific guidance as to what costs may be included in the transmission delivery charge would be preferable. For example, only specifically identified tariff charges would be included, but not all miscellaneous charges. Providing specific guidance on a limited set of charges that would be appropriate for inclusion in the transmission delivery charge will also create consistency between electric utilities that choose to implement this type of charge. Again, since I am not a transmission engineer, clearly identifying what specific costs to include is a challenge, but the this challenge is preferable to leaving it open to “any and all” costs.

5) New Section 2(b) The bill states that transmission related costs that result from and order of a regulatory authority having legal jurisdiction over transmission matters “shall be conclusively presumed prudent”. (I presume this is reference to the Federal

Energy Regulatory Commission) The bill allows electric utilities to summarily change their transmission delivery charge accordingly and notify the Commission only after they have done so. CURB has several concerns related to this portion of the bill. First, it is unprecedented that a utility can summarily change rates to retail customers prior to notifying the Commission. Even if “conclusively presumed prudent” this section removes any ability of the KCC or CURB to review how any cost changes were implemented for tariff purposes. Second, since the bill appears to leave the decision to change rates in the hands of the utilities, it is unclear whether the KCC or CURB have the ability to require a price change in instances where transmission costs might decrease, whether from a FERC ordered change, or simply from a change in how the electric utility is purchasing transmission to serve retail customers. Further, it is unclear whether the KCC or CURB have any ability to review the actual purchase decisions of the electric utility. It is possible, even where there may be a lower cost equally reliable transmission option to serve retail customers, that the electric utility may choose a more expensive transmission option for purposes other than the benefit of retail customers. Creating a conclusive presumption of prudence and allowing a utility to summarily change rates removes customary oversight authority over utility decisions. Third, as noted above in point (4), the authority granted in this section only makes sense if the costs allowed under a transmission delivery charge are limited to those areas that could be addressed by a “regulatory authority having jurisdiction over transmission matters”, i.e., FERC tariff charges. If the FERC, after review, changes a FERC transmission tariff (i.e. a network tariff rate), and FERC tariff rates are all that is included in the transmission delivery charge, while not eliminating CURB’s concern about oversight, the section would at least

be internally consistent. However, with the “any and all” transmission costs language included in New Section 2(a) CURB believes the bill as drafted is too broad and vague, and will be detrimental to residential and small commercial customers who will be responsible for paying the transmission delivery charges.

In summary, CURB does not believe that this is an appropriate area for legislation. Changes proposed within this bill can be accomplished within the existing KCC process. The language that allows an electric utility to include “any and all” transmission costs in a transmission delivery charge, when read with the “conclusively presumed to be prudent” language in the bill causes great concern about the ability to provide oversight of charges that residential and small commercial customers will pay on their electric bill. If it is the legislature’s pleasure to move forward with the statutory scheme represented in this bill, CURB recommends that the bill be more narrowly crafted to include only those charges that are based on a FERC transmission tariff. Narrowing the scope of this bill will provide more clear guidance as to what can be included in a transmission delivery charge, and will provide some internal consistency between the different electric utilities as to what is included in each utilities transmission delivery charge.