


Citizens' Utility Ratepayer Board		
Board Members: Gene Merry, Chair A.W. Dirks, Vice-Chair Francis X. Thorne, Member Nancy Wilkens, Member Carol I. Faucher, Member David Springe, Consumer Counsel	 State of Kansas <i>Kathleen Sebelius, Governor</i>	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

H.B. 2045

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 1, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2045. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

In general, where transmission projects are identified as increasing system reliability or providing benefits in excess of costs, transmission owner operators will agree to build the project and costs will be recovered through standard regulatory mechanisms. It is CURB's interpretation that this bill is aimed at those situations where a project is identified, but no agreement can be reached as to whether the project should be built, who will benefit from the project and how the costs of a project will be allocated to those who benefit for cost recovery purposes. In this situation, a project may not be built without some outside determination that a project should proceed and allocating costs for recovery purposes.

To the extent that H.B. 2045 is intended to create, in those instances where there is a dispute, a proceeding at the Kansas Corporation Commission, with the attendant due process rights that attach to such a proceed, for the purpose of determining whether transmission facilities should be built or how to allocate the costs of a proposed transmission project, CURB does not oppose this intent. However, as drafted, CURB believes the bill goes beyond this type of dispute resolution or cost allocation type process to create a cost recovery process that will assess consumers throughout the state for projects that may provide no direct benefit in return.

Section 1(e) of the bill creates a mechanism to assess the cost of constructing transmission facilities against "all electric public utilities, electric municipal utilities and electric cooperatives having retail customers in the state", based on each utility's "proportion to the number of kilowatt hours consumed during the preceding calendar year by the utilities retail customers in this state." There is no linkage between who may benefit from construction, who would use the construction and who actually pays for the construction. CURB finds this to be problematic. Westar's retail customers, simply based on Westar's size, will end up paying the majority of costs for all projects under this bill, regardless of where they are built, and regardless of who they benefit.

Further, the costs pursuant to Section 1(e) are to be recovered from only retail customers, while apparently no costs are recovered from, or allocated to wholesale customer or to users of the transmission system that may not provide retail service in

Kansas. Since the bill notes that the Commission must find these costs “are not being otherwise recovered” (Section 1(b)(2)), it would appear that the bill creates a general taxing type authority for recovery of an undefined level of costs that cannot be clearly assigned based on benefit. CURB does not believe retail customers should be the catch-all financiers for any unrecovered costs as proposed by this bill.

Section 1 (b) states that the Kansas Corporation Commission may allow recovery of costs associated with the construction or upgrade of an electric transmission facility if the Commission finds that any “state agency, commission or council, or another recognized body”, has made a determination that a transmission construction project or upgrade will provide “measurable economic benefits to electric customers in all or part of the state that will exceed anticipated transmission costs.” (Section 1(b)(1)(B)) This language is far too broad, not requiring that the “recognized body” be in any way related to the provision of electric service in the state, have any expertise in this type of analysis or have any jurisdiction to make these types of determinations. Given that “economic benefits” is also undefined, this creates the opportunity for “recognized bodies” within the state to attempt to create localized economic benefits while passing the expense of creating these localized benefits to statewide retail electric consumers. Creating this type of incentive is not good public policy.

In summary, CURB would support the creation of a process at the Kansas Corporation Commission to deal with disputes related to transmission construction. However, CURB cannot support the type of cost recovery mechanisms proposed in this bill.

One final note. CURB would also suggest that if the Committee approves the framework suggested within this bill, that the Committee also require electric public utilities subject to KCC jurisdiction make use of the provisions outlined in K.S.A. 66-1237 (attached). While CURB testified against the bill that ultimately became K.S.A. 66-1237, if the public policy of the state, as set forth by legislation seeks to aid in, and pay for the construction of additional transmission facilities, the costs of transmission should be made apparent to consumers on their utility bills. K.S.A. 66-1237 allows an electric utility subject to KCC jurisdiction to seek approval to create a line item on customer bills for the recovery of transmission costs (and removing such costs from retail rates). This discretionary transmission line item should be made mandatory.