


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/

SENATE UTILITIES COMMITTEE
H.B. 2465 (as amended)

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March 14, 2005

Chairman Emler and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2465. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill makes two changes to an existing statute that removes valuable consumer protections and place arbitrary restrictions on the Commission's review authority. This bill seems to be about forcing quick answers. CURB believes it is more important to make sure we find the right answers.

Section 1.

This bill will amend K.S.A 2004 Supp. 66-1237 to require that the Kansas Corporation Commission issue an order in not more than 120 business days when any utility files an application pursuant to the statute, unless filed in conjunction with a rate case. CURB believes that requiring the Kansas Corporation Commission issue an order in these types of proceedings within 120 business days, regardless of the facts of the case, is arbitrary and not in the best interest of the public. Setting an arbitrary 120 business day restriction ignores the potentially complicated nature of these cases, ignores that time constraints can be dictated by what other cases are currently before the Commission, and ignores the fact that regulators (and legislators) should be more concerned with getting the rate change correct than getting it within a short period of time.

This section of the statute will only apply to each utility one time. After the mechanism (and line item charge) has been established, the Commission will only review subsequent rate changes pursuant to Section (b) of the statute. There are only 5 utilities this will apply to (Westar, Aquila, KCPL, Empire and Midwest Energy) and possibly two co-ops (KEPCO and Sunflower). CURB suggests that the importance of establishing this mechanism correctly, and insuring that only the proper level of costs are passed to consumers under this mechanism outweighs any need to finish the proceeding by an artificially established deadline. Whether it takes 30 days or 200 days, we should not arbitrarily limit the time necessary to insure that the charges placed on consumer bills are correct.

If the legislature does believe a deadline is necessary, CURB suggests the 240 day time frame consistent with a rate case timeline.

Section 2.

The bill also makes a fundamental change to the Commission's review authority in Section (b) of the statute. Currently, any time "subsequent" to the utility filing its change in transmission rates pursuant to the statute, if the Commission "determines that all or part of the change did not result from an order described by this subsection, the Commission may require changes in the transmission delivery charge and impose appropriate remedies". This is an appropriate protection for consumers. The utility should not benefit from improper actions, and the Commission should be able to reverse any rate changes and refund any money to consumers that resulted from improper rate changes at any time.

Under the amended language in the bill, the Commission's review is restricted to only 90 business days. Again, this is an arbitrary time constraint, and reverses a valuable consumer protection. If the Commission finds on the 91st day, or the 191st day that consumers have been wrongly overcharged, consumers should have the right to the return of their money. CURB believes that consumers should always be assured that improper overcharges will be refunded. Arbitrarily restricting the period of review denies consumers this important protection.

For the above reasons, CURB opposes this bill, and opposes these changes to the existing statute.