Citizens' Utility Ratepayer Board

State of Kansas
Kathleen Sebelius, Governor

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
H.B. 2589

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
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Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2589. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

1. Net Revenues from Wholesale Off-system Sales

CURB strongly opposes the provision in Section 2 (page 2, line 24) of the bill, amending K.S.A. 66-1,184a(b) to allow utilities to retain "50% of the utility's net revenues from wholesale off-system sales of electricity generated by capacity placed in service on or after January 1, 2008." This provision will simply transfer millions of dollars from retail ratepayers to shareholders. Retail ratepayers are expected to pay all of the costs of utility service, including all of the cost of generating plant. To the extent that the utility can use that generating plant to make additional revenue in the wholesale market, the current policy of the Commission is to credit those revenues back to retail customers to help offset the cost of plant. Where retail ratepayers have 100% of the cost responsibility, the retail ratepayers should continue to have 100% of the revenue benefit.

2. State Agency Renewable Energy Supply

CURB is generally supportive of renewable energy resources, however, CURB does not support, at this time, using the type of inflexible mandate as is set forth in Section 1 of this bill. While the level of renewable energy mandated under the bill is not excessive (2.5% state agency load through 2010, and 10% thereafter), the bill leaves little flexibility for state agencies, or for an agency's electric supplier, to meet the requirements set forth in the bill.

However, if the committee decides that for policy reasons, power supplied to a state agency must come from the percentage of renewable resources listed in the bill, certain clarifications should be made.

- The electric supplier should be allowed to make a reasonable estimate of its state agency load on an aggregate basis. The electric supplier should only be mandated

to supply the stated percentages of renewable energy on this estimated state agency load, and not on the entire system load.

  - "*the electric supplier and the state agency will be deemed to meet the requirements of this act if the electric supplier provides energy from renewable resources in an amount equal to the required percentage multiplied by the aggregate total state agency load on the supplier's system.*"

- The language at line 21, restricting the generation facilities to only those constructed after December 31, 2006 should be deleted.

- The language at line 25 requiring that the electricity "shall" be provided at the provider's standard rates for electric service, should be restated to be "may" be provided at the provider's standard rates for electric service. Using "shall" in this instance means that customers other than the state agencies that are the subject of this mandate will have to subsidize the costs to the state agencies. This language removes the flexibility of the Kansas Corporation Commission, CURB, the electric suppliers, or other parties to suggest alternative cost recovery mechanisms for the cost of renewable resources, and may simply serve to increase all consumers' utility rates.

- State agencies or their electric suppliers should be allowed to purchase "green certificates" as a method of meeting the mandates of the bill. The requirements of this bill apply to every electric supplier in the state, including many small municipal systems or rural co-ops. The bill must provide some flexibility for these smaller suppliers to meet the obligations set forth in the bill.

- Section 1(d), should be deleted. The state agency and electric provider should not become subject to civil fines pursuant to this act.

- Section 1(e) may need to be clarified to set forth exactly what "funded solely by user fees" means. For example, CURB is fee funded through assessments to utility companies, which are then passed to consumers in utility rates. A more clear statement of who this applies to may be helpful.

- Section 1(e) should also be amended to exclude any state agency that does not have control over its bill for electricity. Some agencies my rent space under a utilities paid lease. Some clarification should also be made for these agencies.

- Some clarification should be provided as to who oversees the obligations, rules and reporting under this programs. While the bill mentions KCC, the department of administration may be a more appropriate agency to oversee this mandate. Administering the requirements of this act for each agency, and each electric supplier will not be a small endeavor.