

Citizens' Utility Ratepayer Board

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HOUSE UTILITIES COMMITTEE H.B. 2035

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 28, 2009

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2035. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

A small cooperative electric provider in Kansas, small defined in K.S.A. 66-104d, currently has the statutory authority to remove itself from KCC regulatory jurisdiction if the members of the cooperative vote in favor of this action, in accordance with the statute. It is my understanding that the 15,000 customer level for the opt-out provision in the current law was created because of the cost impact of the regulatory process on small utility systems. The current law does contain a provision that the KCC "shall" investigate the deregulated cooperative's rates if a set percentage of customers petition the KCC within one year of a rate change. The KCC has the power to fix and change rates if it finds the cooperative's rates unreasonable.

HB 2035 amends K.S.A. 66-104d to eliminate the current cap on the size of an electric cooperative that can voluntarily opt-out of KCC regulation. Currently the larger Kansas electric cooperatives (above 15,000 customers) remain under KCC regulatory jurisdiction per K.S.A. 66-104d. Sunflower and KEPCO also remain under KCC regulatory jurisdiction.

CURB does not believe there is any justification for a large electric cooperative to exempt itself from KCC oversight. This bill could functionally deregulate a good portion of the wholesale and retail electric providers in the state. CURB is concerned that customers that have historically had specific due process protections through the regulatory process, like the former Aquila electric customers who are now cooperative customers, may lose those protections in the future. I believe that in some instances, the former Aquila customers do not have the same voting rights at the cooperative level as the cooperative customers that acquired the Aquila system.

If this bill does pass committee, CURB would request that language be added, perhaps to section (h)(1), that requires the deregulated cooperative include a provision in its notice to customers, either before or after the rate change, of the right of customers pursuant to K.S.A. 66-104d(g)(1) to request KCC review of the rate change.

Thank you.