

# Citizens' Utility Ratepayer Board

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## HOUSE UTILITIES COMMITTEE H.B. 2303

Testimony on Behalf of the Citizens' Utility Ratepayer Board  
By David Springe, Consumer Counsel  
February 16, 2011

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2303. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

Sections 1 through 3 of H.B. 2303 will require an electric utility (Westar Energy, Kansas City Power & Light and the Empire District Electric Company only) to file a tariff that allows "variable time-of-day" pricing in any city where the utility has deployed smart meters to a majority of its residential customers. The bill appears to suggest that the tariffs be city specific and requires a "cost based customer charge" be created and charged to residential customers in each city. The bill requires that the variable time-of-day rates reflect "market prices" and that customers who will be billed using variable time-of-day rates be provided ready access to "hourly market prices, including, but not limited to, day-ahead hourly energy prices". The state corporation commission is also required to create a "cost based customer charge classification system that divides residential electric customers...into categories and determines the average fixed costs for providing electric service for customers within each classification".

CURB is not opposed to exploring the many different pricing options that new "smart meter" technology may allow, including time-of-day rates. However, the language in this bill is not well defined and is in many respects contrary to how utility rates are currently set. For example:

- There are no "market prices" for Kansas or for individual cities within Kansas. There are also no "day ahead hourly energy prices". The utilities impacted by this bill are rate of return regulated with prices set by the state corporation commission. Kansas chose not to de-regulate generation or to institute retail wheeling, so there is no central market where generation is bid in, and purchased out at market prices.
- Rates are not, and should not be determined city-by-city. Implementing a city-by-city tariff structure would not be efficient, economic or equitable.
- The "cost based customer charge" is undefined. If taken as a charge intended to recover the fixed cost of utility service in one monthly customer charge, then the current \$7-\$9 monthly customer charge on bills will go up to a \$40-\$50 a month charge, regardless of

use. Rates can be designed in this manner to recovery fixed costs, but there is no evidence to suggest that customers will accept this change.

- Pricing based on marginal internal utility cost (hour-by-hour cost of fuel in the marginal plant) may lead to excess revenue paid by customers and kept by the utilities. On the hottest hour of the year, the marginal plant is likely a natural gas plant. However in that hottest hour, 60% - 80% of all kilowatt hours are generated by coal and nuclear. If every kilowatt hour produced in that hour is priced based on the marginal cost of natural gas, then customers will be overpaying for every kilowatt hour generated from a coal or nuclear plant. The utilities cannot be allowed to keep this excess payment. If the legislature moves towards a marginal cost pricing structure (if that is the intent of the bill), then there should also be a discussion about decoupling revenue from sales to insure customers do not overpay for service, like has happened in many deregulated states
- While it is possible to break the residential class into sub-classes, and generate cost-of-service data, this is a data intensive process and may generate concerns about the legality of unduly discriminatory rate structures. As noted above, it is doubtful this can be done city-by-city.

If the intent of the bill is to create a rate structure that provides a financial incentive to customers to modify electric usage, and be rewarded for doing so, there are other equally effective and perhaps less costly means of achieving this objective. The KCC is currently evaluating different types of rate structures and it is anticipated that there will be pilot programs to test the design and customer acceptance of these types of rate structures. Offering these types of rate structures is very data intensive. Simply having a smart meter does not necessarily mean the utility's back office accounting and billing systems are capable of pairing 24 hourly prices with 24 hourly meter reads every day for 30 days (17,280 data points) and generating a bill. What is contemplated in this bill is premature for residential customers.

Sections 4 through 6 of the bill amend the Kansas parallel generation statute (K.S.A. 66-1,184) and the Kansas net metering and easy connection act (K.S.A. 66-1263 *et seq.*) to require customers that are billed under a variable time-of-day tariff shall also be compensated for generation at the time-of-day rates being charged. While this appears to make the parallel generation statutes and the net metering statutes track the above section on time-of-day pricing, at this time CURB cannot comment on the impact these changes will have without further clarification of the outstanding questions raised with respect to the above language in the bill.

For the above reasons, CURB does not support passage of this bill and asks that the bill not be passed out of Committee.