Citizens' Utility Ratepayer Board

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SENATE UTILITIES COMMITTEE
S.B. 374

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

Thank you for this opportunity to offer testimony on S.B. 374. The Citizens' Utility Ratepayer Board (CURB) is neutral on this bill at this time. CURB will suggest a few drafting changes that will make the bill better.

CURB has long supported enhancing customer access to energy efficiency and demand-side management programs. Utility rates have increased substantially over the last few years leaving customers struggling to find measures that can help lower overall usage and reduce the overall utility bill. CURB, in conjunction with AARP, introduced S.B. 284 in 2009 as an attempt to establish a non-utility, third party provider of energy efficiency services for utility customers. The bill did not pass, and we as a state have defaulted to asking our utilities to be the providers of energy efficiency and demand-side management services to utility customers.

If you move past the question of whether or not it should be the utilities that provide these energy efficiency and demand-side management services, then the only real question is how much we, as utility customers, have to pay utilities to ***not*** sell energy, which is after all their primary business. There are many different models to incent, or at least to remove disincentives, for utilities to offer energy efficiency or demand-side management programs to help customers use less energy. In fact, there has been a series of dockets at the state corporation commission (commission) discussing and setting forth Kansas policy on these very issues. To the extent that S.B. 374 does not dictate any particular program design, cost recovery model or method, and leaves these decisions to the commission, CURB will remain neutral on the bill.

CURB does highlight the following language in the bill, and makes the following suggested changes to the language in the bill to make it internally consistent and remove redundancy.

- P. 1, ln 19; delete "avoided probable environmental costs" as redundant to "avoided utility costs".
- P. 1, ln 24; states "it shall be the policy of the state to value demand-side program investments equal to traditional investments in supply and delivery infrastructure" has the effect of making energy efficiency and demand-side management no longer voluntary for utilities. Before a utility invests in traditional supply and delivery infrastructure, it must evaluate (and presumably later be capable of proving to the commission) that there was no lower cost energy efficiency or demand-side management options that could have met the supply objective. If our goal is to ensure that ratepayers benefit from the lowest cost supply options, this is a positive statement.

- P.1, ln 26; delete “as much as practicable”. Phase is inconsistent with the state policy and will generate arguments about what is, or is not, “practicable”.
- P.1 ln 27; “electric public utilities shall submit demand-side management program plans and cost recovery mechanism to the commission for approval”. This supports the overall policy statement that demand-side programs are no longer voluntary. Again, CURB supports this positive requirement as consistent with the stated policy objective.
- P.1, lns 31 and 33; Change 120 days to 240 days. There is no common agreement on which approach the commission should take to enhance the provision of energy efficiency and demand-side management. The commission will need more that 120 days to process these early cases. CURB believes that the Commission, and the parties to the proceeding, should be afforded the standard 240 day schedule to make sure adequate time is available to process the evidence and make a well reasoned decision for both the utilities and utility customers.
- P. 1, ln 32-34; A plan is summarily approved if the commission does not issue a decision within 120 days. Customers should not be forced into funding a bad plan simply because the commission has not issued a decision. This is arbitrary and putative and should be deleted.
- P. 1, ln 29; add “approve with modifications” after the word “approve”. Now to read “approve, approve with modifications or disapprove.” With this addition, sections (c)(1)(B) and (c)(1)C) can be deleted. See next comment.
- P.1, ln 35 - P.2, ln 9 (effectively sections (c)(1)(B) and (c)(1)C)) should be deleted. These sections give the utility the authority to reject any modification to the filed plan required by the commission to bring the plans into compliance with commission policy or the public interest (see p. 2 ln 4). It is inconsistent to require utilities to submit programs to the commission, but then give the utilities veto power over what the commission may require in exercising its authority to protect the public interest. This causes confusion, is inconsistent with the stated policy.
- P. 2 ln 33; add “(G) allowing annual recovery of annual expenses through a line item on consumer bills.” This is current commission policy and should be included in the list. It is also consistent with a prior commission ruling on what is “timely cost recovery” for utilities, as required at P. 2 ln, 38.
- P.2, ln 34-36; delete language in (d)(2). Section requires the commission shall “fairly apportion the costs and benefits” of the program. “Fairness” is in the eye of the beholder, but the commission makes decisions based on substantial competent evidence in the record. This language is unnecessary and not legally supportable, unless the legislature also defines “fair”.
- P. 2, ln 43; delete language in (e)(3), as redundant to (e)(1) and (e)(2) and therefore unnecessary.
- P. 3, ln 2; delete language in (e)(4). It is always within the commission’s statutory responsibility to “provide oversight and approval of utility specific settlement and tariff provisions”. This language adds nothing, and raises the question whether the commission has the authority to “deny” a settlement, since the language might be interpreted to only allow “approval”.
- P. 3, ln 17. Delete section (g). Section (g) gives the utility unilateral authority to terminate “any existing demand-side program” by simply filing notice with the commission. This is inconsistent with the earlier sections of the bill setting forth the policy of the state and requiring utilities to file programs.
- P. 3, ln 21; for rules and regulations, add “if necessary” after “act” and replace December 31, 2014 with either June 31, 2015 or December 31, 2015. Rules and regulations may not be necessary to administer the act, so adding “if necessary” gives the KCC flexibility. Also, to the extent that there are difficult and subtle policy choices to be made when deciding how best to compensate utilities for offering these programs, requiring rules and regulations be issued by December 31, 2014 is unreasonable and unworkable.

Thank you for this opportunity to testify on SB 374.