

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
Kathleen Sebelius, Governor

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. 2263 (as amended)

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March 15, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2263. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill, HB 2263 presents an expansive new mechanism, the Kansas Electric Transmission Authority, to build transmission in the state. CURB questions under what circumstances Kansas would need an independent transmission Authority to "further ensure for reliable operation of the integrated electrical transmission system". (Section 1(b) at page 1 line 17) Since Southwest Power Pool will require transmission be built for reliability purposes, and can get transmission built for economic purposes (with the noted that there can be disputes over building transmission for economic purposes) it would appear that this Authority is unnecessary.

CURB believes the operable language in this bill is that the Authority will build transmission to "diversify and expand the Kansas economy and facilitate the consumption of Kansas energy through improvements in the state's electric transmission infrastructure." (Section 1(b) at page 1

While this is a long and somewhat complicated bill, CURB believes the following passages explain the bill and highlight CURB's concerns:

- The Authority that will build transmission when no "private entity" will. (See Section 7(b)(1)) at page 7 lines 1-6)
- The Authority "shall not be subject to supervision or regulation by the state corporation commission", except for wire stringing and transmission line siting. (Section 8(a) at page 8 lines 20-25)
- The Authority is authorized to issue KDFA bonds to build the transmission, and to pay its administration and operating costs. (See; Section 7(a)(13) at page 5 lines 22-41, Section 9(a) at page 8 line 41- page 9 line 18, and 9(c) at page 9 lines 21-28)
- The Authority may exercise the power of eminent domain. (Section 8(b) at page 7 lines 26-29)

CURB's concern centers around the proposed mechanism to recover the costs of the transmission projects built by the Authority. Cost recovery is addressed in Section 7(a)(15)(at page 6, lines 4-30.) CURB believes that the language proposed in the bill is

unclear. The Authority will recover its costs through tariffs of the Southwest Power Pool regional transmission organization. However, if all costs of the Authority are not recovered through the SPP, the bill creates a mechanism through the KCC to assess costs against “all electric public utilities, electric municipal utilities and electric cooperative utilities receiving benefits of the construction or upgrade”. Each utility’s assessment “shall” be based on the benefits the utility receives from the construction and each utility “shall” recover its assessed cost from the utilities retail customers. There is no language that limits the cost assessment to only an amount equal to or less than the benefits received by the utility.

The paradox of the bill is that if no other entity is willing to build the transmission line, it would seem to indicate there is not a need for the line or it is not economic. (Lines will be built for reliability purposes) If the Authority builds the line anyway, for economic development purposes, the same entities that did not need the line in the first place probably will not sign up to use it. If no one signs up to use the line, (or the line is less than fully subscribed) it is unlikely that 100% of the costs of the line (and other administrative costs of the Authority) will be recovered through the SPP tariff. To recover the rest of the Authority’s costs, the Commission will have to engage in the “benefits” analysis to assigned unrecovered costs to the Kansas electric utility “receiving the benefits of the construction”. Since there is no clear indication in the bill that assignment of costs under the bill will be limited to the benefits received, it is CURB’s concern that the assignment process will result in costs being assigned to the utilities in excess of the benefit received from any construction, because that will be the only way for the Authority to recover its costs to pay its bond payments. And these costs will be directly passed to retail consumers.

CURB would support the creation of a process at the Kansas Corporation Commission to deal with disputes related to transmission construction. This Committee has before it HB 2045, which is an attempt to address this impasse. However, CURB cannot support the creation of independent Authority to build transmission for economic development purposes unless there is some specific language that costs for Authority projects can only be recovered from those that actually use the transmission built. CURB believes the cost recovery language contained in this bill is unclear on this point. Given the magnitude of what is contemplated in this bill, and the complicated nature of this bill, CURB recommends that the Committee not pass this bill in its current form. CURB believes that it would be more prudent to take the time to study this proposal in more detail, through an interim committee or through a KCC docket.