Citizens' Utility Ratepayer Board

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SENATE UTILITIES COMMITTEE
H.B. 2130

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

Chairman Clark and members of the committee:

Thank you for this opportunity to appear before you today an offer testimony on H.B. 2130. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill does two things. First, it adds three new tests that the Commission must consider when reviewing an application to site a transmission line. Second, it creates a separate line item on consumer bills to pass through costs associated with transmission of electric power to consumers.

1) New Statutory Tests:

The existing statutory scheme requires the KCC to consider "necessity' and "reasonableness of location" when deciding whether to issue a site permit for a proposed transmission line. The bill now requires the Commission to also consider and a) benefit to customers in Kansas, b) benefit to customers outside of Kansas, and c) economic development benefits in Kansas. These three additional requirements are nebulous and difficult to define at best. While I am not a transmission engineer, I do understand that building a transmission line in Kansas may have unknown impacts on other transmission lines, both in Kansas and outside of Kansas, by changing line flows. Conversely, building power plants or transmission lines outside of Kansas may have unforeseen impacts on Kansas transmission lines. Attempting to evaluate these impacts with reference to the benefits to customers, both in Kansas and outside of Kansas, and on economic development would be difficult, and quite possibly contentious. These additional tests are unnecessary and add undue complexity to the transmission siting process. Would this language require the Commission to site a transmission line that has no benefit to Kansas, but benefits someone outside of Kansas? Further, will the cost pass through language in New Section (2)(a) and (2)(b) cause Kansas ratepayers to pay for this transmission line, even where the benefit is only to someone outside of Kansas?

2) Transmission Recovery Charge:

a. This bill allows an electric utility, at its option, to create a line item on the consumer bill for transmission delivery charges. While CURB is not necessarily opposed to deconsolidating electric retail rates into component parts, such as a transmission delivery charge, CURB does not believe this bill is necessary to accomplish this task. Any utility can propose this same measure by filing an application at the Commission. In fact, Midwest Energy has deconsolidated its customer electric bills through this KCC process.

b. New Section 2(a) The transmission delivery charge will recover costs associated with transmission of electric power to retail customers. However the bill is silent on what types of transmission cost can be included in the transmission delivery charge. Transmission costs come in many forms, from pure transmission tariff rates, to ancillary services charges, to transmission costs included in a power purchase contract, to back office staffing costs related to transmission engineering and billing, to regulatory costs for transmission related filings, to dues from participation in power pools and retail transmission organizations, to computers and software to tracking transmission flows, and so on. Administering what cost is transmission related, and appropriate for inclusion in the transmission charge, verses what costs are not transmission related and therefore appropriate for inclusion in retail rates will be a difficult task going forward. Providing more specific guidance as to what costs may be included in the transmission delivery charge would be preferable. For example, only specifically identified tariff charges could be included, but not all miscellaneous charges. Providing specific guidance on a limited set of charges that would be appropriate for inclusion in the transmission delivery charge will also create consistency between electric utilities that choose to implement this type of charge.

c. New Section 2(b) The bill states that transmission related costs that result from and order of a regulatory authority having legal jurisdiction over transmission matters "shall be conclusively presumed prudent". (I presume this is reference to the Federal Energy Regulatory Commission) The bill allows an electric utility to summarily change its transmission delivery based on these changes. CURB has several concerns related to this portion of the bill. First, since the bill appears to leave the decision to change rates in the hands of the utilities, it is unclear whether the KCC or CURB have the ability to require a price change in instances where transmission costs might decrease. Second, it is unclear whether the KCC or CURB have the ability to review the actual purchase decisions of the electric utility. The bill appears to limit the review to inquiring whether the rate change was due to an "order described by this section". Third, creating a "conclusive presumption of prudence" may result in the utility making decisions that are not the least cost option for consumers. A more expensive decision that comes with a conclusive presumption of prudence will always be preferred to a less expensive option that is not conclusively presumed prudent. Fourth, as noted above in point (b), the authority granted in this section only makes sense if the costs allowed under a transmission delivery charge are limited to those areas that could be addressed by a "regulatory authority having jurisdiction over transmission matters", i.e., FERC tariff charges. If the FERC, after review, changes a FERC transmission tariff (i.e. a network tariff rate), and FERC tariff rates are all that is included in the transmission delivery charge, while not eliminating CURB's concern about oversight, the section would at least be internally consistent. However, the language of this bill is much broader than this restricted possibility.

d. Lastly, the bill precludes the Commission and CURB from reviewing the utilities retail rates when the utility changes its transmission delivery charge. This language gives utilities the ability to increase rates to consumers while precluding the consumer's ability to seek rate decreases. This is unfair to consumers.