Citizens' Utility Ratepayer Board

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HOUSE UTILITIES COMMITTEE
H.B. 2516

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 27, 2004

Chairman Holmes and members of the committee:

Thank you for this opportunity to appear before you today an offer testimony on H.B. 2516. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill is intended to provide incentives to build electric transmission facilities in Kansas. As reported by the State Energy Resources Coordination Council Transmission Task Force, electric transmission facilities in Kansas are adequate and reliable at this time. This bill is also intended to provide incentives to build generation facilities in Kansas. At this time, Kansas has generation supply in excess of what Kansas needs to meet its demand. In the simplest sense, if the regulatory mechanisms in place historically have adequately served our need for generation and transmission, I question why we need to provide the additional incentives contained within this bill. Further, I am concerned about the additional costs this bill may create and who will be responsible for paying those additional costs.

If, as a policy goal, the legislature wishes to build additional electric generation and electric transmission facilities in the state, the legislature must be careful not create obligations that force undue burden on the customers of Kansas regulated electric utilities. This is especially true where the regulated utility customers are not in need of additional electric generation or transmission facilities at this time. House Bill 2516 places many new requirements on both the Kansas Corporation Commission ("Commission), and through the Commission's regulatory authority, the regulated

electric utilities in the state. The regulated utility customers will ultimately pay for these obligations, and any additional costs they require, resulting in increasing utility rates. Increased utility rates are not only bad for consumers, but may make the state less competitive and less attractive to business.

For example, New Section 2(a) appears intended to provide a broad set of potential benefits that must be considered by the Commission when siting a transmission line that will interconnect new generation construction to the transmission system. These include “short and long term economic benefit to the community where the proposed generation facility is located” and the “cost of necessary transmission improvements that can be appropriately recovered from traditional sources”.

New Section 2(b) of HB 2516 (page 2, line 1-7) then allows a “transmission systems benefit charge” on customers of “rate regulated electric public utilities” to recover investment in electric transmission that provide “ measurable and significant economic benefits” to “indefinable parts of the state” the full cost of which “will not otherwise be recovered”. Read together, New Sections 2(a) and 2(b) may require the Commission to approve a transmission line because there may be some benefit to a local community which is not served by a regulated utility, and allows a regulated utility to charge its utility customers a transmission systems benefit charge if all costs of the line cannot be recovered in a “traditional” manner. What is absent from this language is any requirement that the measurable economic benefits are received by, or in any way related to, the regulated utility customers that will be paying this systems benefit charge.

Although not directly stated, I believe that the incentives in this bill must be viewed in conjunction with the desire to develop wind energy resources in Kansas. While the language in the bill is written in a generic fashion, and will certainly be applicable to any proposed generation or transmission facilities, it seems that at this time, the provisions contained in this bill will be most directly applicable to those seeking to build wind generation and transport the energy to market. A policy to develop Kansas wind energy resources and to provide electric transmission to aid in the development of Kansas wind energy resources is not objectionable in and of itself. Again however, I urge the legislature to consider who will be responsible for paying the costs of this policy, and to

make sure that the cost of developing wind power in Kansas, if that is the intent of this bill, does not fall unfairly on the regulated utility customers in the state.

One final point of concern is that New Section 6(a) (page 2 line 35-41) requires the Commission, upon application "shall approve" the sale of transmission lines to an independent transmission company or system operator that has been approved by the Federal Energy Regulatory Commission, including any contract for the operation of the transmission lines to a like entity. While I am not an expert on the federal transmission scheme, or how the determination is made to build transmission, given the general intent of this bill, do we as a state want to cede jurisdiction over the entirety of the state's transmission facilities in such a summary fashion to a regional company over which the state will have little or no jurisdictional control?

Other language issues and questions:

- New Section 1 (c) defines transmission at the 69 kilovolt level. (page 1, line 24) This is consistent with definition used in Section 8(c). (page 7, line 26) However, in Section 12(b) dealing with KDFA bond authority, 34.5 kilovolts is used. (page 8, lines 26-30)

- New Section 2(a) (page 1, lines 29-34) requires the Commission to open a generic docket to examine any changes in rules, regulations or statutes necessary for the Commission to consider economic benefits to local communities and the state when reviewing applications seeking to construct or upgrade transmission. HB 2130, passed last year, by statute requires the Commission to consider "the benefit to both customers in Kansas and customers outside of the state and economic development benefits in Kansas", when siting transmission lines per K.S.A. 66-1,180. New Section 2 is not necessary since the statutory changes requested have been accomplished through the passage of HB 2130. (These potential additional transmission costs are a concern because HB 2130 also created a pass through mechanism where transmission costs are "conclusively presumed prudent" and passed on to the regulated utility customers in a transmission line item)

- New Section 2(a) (at line 34), states that "in making such determination the Commission shall consider", and then lists a broad set of benefits for consideration. (see page 1, lines34-43) Are the listed benefits to be considered intended to be placed in rules, regulations or statutes by the Commission, or just required to be considered in determining whether there should be any changes to rules regulations and statutes?

- New Section 2(c) (page 2, lines15-17) requires the reimbursement of a prorated share of the "benefits achieved" by the availability of the transmission capability. Are these the same broadly defined benefits as described in New Section 2(a) of the bill (page 1, lines34-43) and if so, how do we calculate the appropriate prorated share of those benefits?

- Is New Section 3 more appropriately placed within Section 12, given both deal with KDFA bonds? And what is the genesis of the 85% in-state requirement as it relates to KDFA bonds?

- New Section 4 requires a 15 year capital recovery period for transmission facilities that may conflict with federal recovery and may therefore be preempted. The 15 year recovery period may also conflict with KDFA bond payback periods if utilized pursuant to Section 12.

- New Section 5 allows any entity that constructs new or expanded generation capacity to grant or lease the interconnection facilities to transmission operators. Should there be some size limitation on the generation this applies to, or can "any entity", including an individual, construct a small generator and connect to the grid under this provision? And are transmission operators required to accept the grant or lease of the interconnection facilities or can they turn down a request?

- New Section 11 (page 8, line 6-11) requires the Commission "shall" include in consumer rates the utility's "prudent expenditures for research and development" performed by research centers determined by the Commission to be nationally recognized. Does this require all R&D expenditures be included in rates if the R&D is performed by a nationally recognized research center, or does this allow the Commission to still question whether the level of R&D expenditure is prudent, regardless of whether performed by a nationally recognized research center? For example, if a utility spend $10 million on R&D costs at a nationally recognized research center, is the Commission required to place the $10 million cost in rates simply because the research center is nationally recognized, or can the Commission question the prudence of the utility spending $10 million?