


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 <i>Kathleen Sebelius, Governor</i>	1500 S.W. Arrowhead Road Topeka, Kansas 66604-4027 Phone: (785) 271-3200 Fax: (785) 271-3116 http://curb.kcc.state.ks.us/

HOUSE UTILITIES COMMITTEE

H.B. 2263

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 14, 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:

CURB testified on HB 2045 before this Committee recently, a bill similar to HB 2263. While CURB did not support HB2045, CURB did believe that the intent of the bill was good, that being to create some mechanism or proceeding to determine if and when certain transmission facilities should be built if there is a dispute as to the need for the transmission or the assignment of costs for the transmission project. As described, HB 2045 attempted to address situations where transmission could be built for "economic" reasons, but was not needed for reliability purposes. One of CURB's main concerns with HB 2045 was that the cost of building the transmission projects would simply be charged to all retail electric consumers regardless of whether the consumer specifically benefited from, or even used the transmission construction.

This bill, HB 2263 presents a far more expansive mechanism to build transmission in the state. 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), CURB questions under what circumstances we would need an independent transmission Authority to "further insure for reliable operation of the integrated electrical transmission system". (Section 1(b) at page 1 line 17)

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."

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 6 line 7 through page 7 line 8)
- 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 7 lines 26-31)

- The Authority is authorized to issue KDFA bonds to build the transmission, and to pay its administration and operating costs. (See Section 9(c) at page 8 lines 25-43)
- The Authority may exercise the power of eminent domain. (Section 8(b) at page 7 line 32)
- Any Authority costs not recovered through SPP tariffs will be recovered “through assessments against Kansas wholesale transmission customers in a manner reasonably consistent with the method used by other transmission providers for similar transmission services”. (See Section 7(a)(16) at page 5 lines 26-36)
- The wholesale transmission customers paying such assessment “shall recover it through the wholesale customers retail rates”. (See Section 7(a)(16) at page 5 lines 26-36)

This language does not require that the “Kansas wholesale transmission customers” that will be assessed costs by the Authority are actually using the transmission lines built by the Authority. What is meant by the “manner reasonably consistent with the method used by other transmission providers for similar transmission services” is also unclear.

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. 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 impossible to recover the 100% of the costs of the line (and other administrative costs of the Authority), *unless* those costs are simply assigned outright to *every* Kansas wholesale transmission customer, regardless of the use of the line.

CURB would also note that the bill amends K.S.A. 66-1237 to include assessments from the Kansas Transmission Authority in the charges that are presumed prudent and passed directly to retail customers. (Section 14 at page 10 lines 18-43)

As noted in testimony on HB 2045, CURB would support the creation of a process at the Kansas Corporation Commission to deal with disputes related to transmission construction. However, as with HB 2045, 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 cannot support the mechanism in this bill that appears to make retail electric customers in the state the catch-all financiers for the economic development projects built by the Authority.