

Citizens' Utility Ratepayer Board

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HOUSE UTILITIES COMMITTEE H.B. 2711

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 6, 2008

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2711. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

CURB believes that the majority of customers do not simply want the lowest-cost power, regardless of source. CURB believes that most customers want reasonably-priced power from a balanced portfolio of resources, including increased levels of renewable resources and energy conservation. Consumers are becoming more concerned about issues related to carbon and the environment and are becoming more aware about the relationship between our consumption decisions and our resource needs.

It is clear that this bill is aimed at the Sunflower coal plant. However, the provisions of this bill equally impact every other utility in Kansas. The cost of building plants under this bill, along with the cost of remediation offsets and carbon taxes will eventually be included in consumer rates. Given the short time to review this bill, and the complexity of the carbon offset scheme created by this legislation, CURB is uncertain whether this bill will result in a proper balance among resource decisions, environmental concerns and consumer rate impacts. CURB believes that given the long life of any plant built today, further and more detailed consideration should be given to the details of the scheme created under this legislation. As such, CURB would support further study of the details proposed in this bill before moving this bill into law.

Section 34 of the bill eliminates the current cap on the size of an electric cooperative that can voluntarily opt-out of KCC regulation. Currently the larger electric cooperatives (above 15,000 customers) remain under KCC regulatory jurisdiction. Sunflower and KEPCO also remain under KCC regulatory jurisdiction. It is my understanding that the 15,000 customer level for the opt-out provision in the current law was created because of the cost impact of the regulatory process on small utility systems. There is no justification for a large electric cooperative to have this same opt-out provision to exempt itself from KCC oversight. CURB is concerned that customers that have historically had specific due process protections through the regulatory process, like the former Aquila electric customers, may lose those protections in the future.

Sections 13-28 of the bill address net metering. The language in these sections is the exact language contained in HB 2682. I have attached my recent testimony on HB 2682 before the House Utilities Committee that discusses issues with the net metering proposal.

CURB does support the sections of the bill related to increasing energy efficiency in Kansas. The bill also creates an “energy efficiency grant program” to be financed with the proceeds of the \$3 tax on carbon emissions. [New Section 12 (h), Page 11] However, it is uncertain whether any tax proceeds will ever be collected under this bill, meaning that funding for the new energy efficiency grant program will be non existent, or, at best, inconsistent.

CURB believes that, on behalf of consumers, the legislature should create and fund a third-party, non-utility, energy conservation program to provide energy conservation and energy-efficiency measures to Kansas consumers. Several successful models exist in other states for this type of program. For example, Energy Outreach Colorado combines low-income energy assistance with weatherization and energy-efficiency programs. Efficiency Vermont is an independent, bid based supplier of energy-efficiency programs for Vermont consumers. These non-utility programs are customer-funded and successfully offer meaningful assistance to all customers, regardless of utility territory. These programs have proven both successful and popular. It is time that Kansas create a similar independent program to promote energy conservation in Kansas. CURB believes that if this bill is moved into law, it should also contain a more certain energy conservation program than is currently contained in Section 12.

For the above reasons, CURB supports further study of the mechanism created in this bill.

HOUSE UTILITIES COMMITTEE

H.B. 2682

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 31, 2008

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2682. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

Current Kansas law, at K.S.A 66-1,184, regarding parallel generation services, represents the existing policy on payment to small generators for electricity placed on a utility grid. CURB supports the current law and the current economic framework for payments to small generators. Under the current law, customers that also operate small generators do not avoid paying the fixed costs necessary for the utility to remain ready, willing and able to supply power to the customer when needed. The current law does allow the payment of 150% of fuel cost, which is a 50% subsidy on fuel. This subsidy has to be made up by other customers. However, after numerous debates the legislature, as set forth in the current law, has determined that a mechanism that compensates a small generator for the utility's fixed costs, costs that are not being avoided, is the wrong economic policy.

Net metering (as opposed to parallel generation), as commonly used, involves netting the energy delivered by the utility and used by the customer against the energy generated by the customer and delivered to the utility. In simple instances, the customer meter spins backwards when energy is being delivered to the utility grid. Consider the example where a customer relies on and uses the utility system for a portion of the month and uses 1000 kilowatt-hours of energy. If the customer's generator runs for a portion of the month and puts 1000 kilowatt-hours of energy back on the utility system, netting the customer's usage against the customer's generation results in a utility bill for a net zero usage. The utility collects no revenue for any charge that is billed base on customer usage, but rather collects only the small monthly customer charge, which is not based on usage. The majority of a utility's fixed costs are recovered through charges based usage. The customer with the small generator in this example used the utility system for the month for free. Since the utility's fixed costs have not gone away, over time other customers are going to have to pay more in electric rates to offset the fact the utility is no longer receiving revenue from the small generator's use of the utility of the system.

To the extent that a proposed "net metering" law allows a person that has the financial means to afford a small wind turbine or photo-voltaic system to use the utility system but avoid paying the fixed costs of that utility system, then CURB does not believe this is fair or equitable to those that do not have the means to afford this same technology.

H.B. 2682 at New Section 3 (a) [page 2, line 8], makes this new net metering law available on a first come first serve basis, subject to some overall limits on total availability. New Section 3 (b), [page 2, line 21], requires the utility offer a tariff or contract "*identical in*

electric energy rates, rate structure and monthly charges” as a normal customer and specifically precludes charging an additional “*standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer was not an eligible customer-generator*”. Finally, New Section 5 (b) [page 3, line 17] requires, in the situation where the electricity supplied by the utility is in excess of the electricity supplied by the customer-generator the utility must bill the customer for the “*net electricity supplied*”. New Section 5 (c) [page 3, line] goes further to require that, where the customer-generator places more energy on the utility system than the customer uses, not only will the customer get a bill for only the small customer charge, but a credit to the customer’s bill will be created “*in an amount at least equal to avoided fuel cost of the excess kilowatt-hours generated*”, with this credit to be applied the following billing periods up to 12 months. Functionally, this means the utility now owes the customer.

When these sections are combined, a framework is created that allows a small customer-generator to avoid paying the fixed cost of utility service, other than a small monthly customer charge. These sections combined, if enacted, will clearly make small photovoltaic systems more economically attractive to those customers that can afford to purchase a system. These same sections also insure that some amount of the utility’s fixed costs will be shifted to those customers that cannot afford this type of generation system.

The economic reality is that a person that uses the utility system creates the need for generation to be available, transmission to be available, distribution, transformers, meters and service personnel all to be available. Further, as long as the customer remains connected to the grid, the utility still has to plan for and incur costs in a manner to be able to serve that customer in the event the wind or photovoltaic generator ceases working at any time. A customer should not be able to avoid these fixed costs simply because the customer has the means to afford a small generation system.

For these reasons, CURB does not support HB 2682.

However, CURB does acknowledge that, while the economic principles outlined above are true, the level of allowed net metering in HB 2682 is capped. By definition there will be cost shifting and explicit subsidies created by this legislation. The legislature can decide that these subsidies serve a valid purpose. If the Committee does make the policy decision to create this type of subsidy for those that can afford photo-voltaic generation systems, CURB again asks that the Committee consider creating a customer funded third party non-utility entity that can focus on providing low income utility assistance and weatherization, energy conservation and energy efficiency measures to all Kansas customers.