

House Energy, Utilities and Telecommunications Committee
Testimony of Citizens' Utility Ratepayer Board
Proponent Written and Oral Testimony
House Bill 2156
February 9, 2023

Chairman Delperdang and members of the House Energy, Utilities and Telecommunications Committee, thank you for this opportunity to testify regarding House Bill (HB) 2156. My name is David Nickel. I am the Consumer Counsel for the Citizens' Utility Ratepayer Board (CURB). CURB is the advocate for residential and small commercial ratepayers before the Kansas Corporation Commission (KCC or Commission) and the Kansas Legislature. My testimony reflects the interests of these utility ratepayer classes regarding HB 2156.

HB 2156 permits, but does not require, Kansas utilities that are subject to regulation by the Commission to file tariffs in an appropriate rate case that contain rates, terms or charges to provide relief for low-income utility ratepayers. In order to be effective, these proposed tariffs must be approved by the Commission as just and reasonable, not unduly preferential and not unreasonably discriminatory. The intent of this legislation is to eliminate a potential decision from a Kansas appellate court that such proposed or effective rates, terms or charges are unjust, unreasonably discriminatory and/or unduly preferential merely because such rates, terms or charges are below the cost of service for the benefit of low-income residential customers. Importantly, it is not the intent of this bill to cause Kansas utilities to become charities, as charitable functions are appropriately met by other organizations.

Rather, HB 2156 is framed only to allow Kansas utilities to find just and reasonable ways to help low-income ratepayers better cope with their high energy burden. It allows Kansas utilities discretion to form relief for energy-burdened ratepayers in manners that best fit their customer base. The tariffs are subject to regulatory oversight by, and need approval from the Commission, based upon commonly used regulatory standards.

It is important legislation, as it allows the disproportionately high energy burden facing some Kansans to be addressed. "Energy burden" refers to the percentage of gross household income spent on energy costs. Although every ratepayer has some energy burden, research shows there is a disproportionate allocation of financial resources among low-income households toward energy expenditures. Research also shows three distinct, but interrelated, effects of high energy burden: (a) illness and stress, (b) financial challenges, and (c) housing instability. In addition to these effects, arrearages caused by the inability of low-income households to pay their utility bills affect utilities and, ultimately, all other consumers by adding costs of collection and unrecoverable debt to the system.

In these regards, some estimate that about 23% of households in the United States have incomes at or below the federal poverty guideline, yet these households may pay up to three times

more on home energy cost, as a proportion of total income, than does the average U.S. household. Some estimate the energy burden on some low-income utility ratepayers to be higher than 10% of their financial resources. In some cases, low-income utility ratepayers must sacrifice adequate food or medicine in order to meet their utility bills. Statistics show that the Low Income Home Energy Assistance Program (LIHEAP) funds only reach approximately 15% of eligible households. At best, LIHEAP availability is subject to wide swings due to the manner in which the U.S. Congress treats LIHEAP funding from year to year. CURB believes that, if Kansas is truly to address and ameliorate the problems associated with the high energy burden faced by some Kansans, continued sole reliance upon the federal government is not workable.

At the suggestion of the KCC staff, CURB initiated workshops and meetings with the largest Kansas utilities and the KCC staff to determine whether there was a path by which the high energy burden challenging some Kansas ratepayers could be alleviated. Not surprisingly, our Kansas utilities showed considerable interest in helping low-income ratepayers. Through a collaborative process, HB 2156 was formed by the thoughtful consideration of all stakeholders involved. It was a common goal to posit a process by which such relief could be approved by the Commission that would be fair and reasonable to all ratepayers. CURB thanks all Kansas utilities that have contributed to this effort.

In fact, CURB learned that a number of Kansas utilities that have utility systems in other states employ tariffs to provide relief to low-income utility ratepayers from energy rates in jurisdictions other than Kansas. Kansas does not have these types of tariffs due to some overbroad statements made in certain rate cases by Kansas appellate courts. None of these cases are particularly on point regarding HB 2156, and CURB earnestly believes that the Commission has very broad discretion to determine matters of rate design, provided that the rate design is just and reasonable, not unreasonably discriminatory or unduly preferential. Yet, in order to allow our utilities to whole-heartedly approach the high energy burden confronting low-income utility ratepayers, CURB asks the Kansas Legislature to eliminate any possibility that Kansas utilities' good-faith efforts could be obviated by Kansas appellate courts.

The efforts of our Kansas utilities in other jurisdictions notwithstanding, there are several states that have enacted legislation by which utilities serving in those states can address and help alleviate the high energy burden faced by their low-income citizens. It would not serve this Committee to detail those individual laws, but it is worth mentioning that the ways in which assorted states address energy burden vary considerably. For that reason, HB 2156 provides permission and discretion for Kansas utilities to find ways to help their own low-income customers, without forcing them to do so. CURB believes that our Kansas utilities understand this issue and will do what they can to help.

Indeed, discretion in tariff relief is necessary. In describing energy burden, the American Council for an Energy-Efficient Economy (ACEEE) notes that low-income households encounter several disadvantages regarding energy affordability. Poverty, insufficient information, inefficient housing stock, among other causes may be to blame for the lack of energy affordability for low-income households. Importantly, in order to redress the energy burden significantly, one must address the root causes of the energy burden for particular households. HB 2156 allows Kansas

utilities the discretion to address the root causes of energy burden in their own systems. For example, poor housing stock affects some Kansans' ability to make their energy more affordable while possibly also raising energy costs for other ratepayers due to increased peak demand.

HB 2156 will not eliminate the high energy burden that some low-income Kansans face, but it opens a path in the right direction. CURB respectfully asks the House Energy, Utilities and Telecommunications Committee to pass HB 2156 favorably out of committee.