

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at \_\_\_\_\_  
Chairperson

9:02 a.m./~~noon~~ January 19, 19 89 in room 254-E of the Capitol.

Members present were:

Senators Morris, Francisco, Hayden, Kanan, F. Kerr, Martin, Rock, Sallee and Thiessen.

Committee staff present:

Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Linda Weir-Enegren, Chairman, Citizens' Utility Ratepayers Board (CURB),  
Wichita  
Keith R. Henley, Chairman, Kansas Corporation Commission

Linda Weir-Enegren introduced the other members of the CURB Board who were with her today. They were J. Lloyd Spaulding, Newton; Donna Kidd, Topeka and Bill Riggins, Attorney for CURB.

Mrs. Weir/Enegren gave a brief background history of how she got involved with being a consumer advocate. She first started out by working with children groups in Wichita and saw how the cost of utilities affected families. She said she was not a utility expert and did not have any particular axe to grind. She was also optimistic and felt there was always a way out and worked hard at a problem.

She said the Board had been meeting for about 8 months and they were learning every day. They were not a group of experts but a strong bond exists between members. She said they spoke to many consumers, made radio and TV appearances and have taken legal actions.

She spoke of the successes they have had in keeping rate increases in check and in educating the public in the matter of utilities. People are concerned about the cost and the average household spends one month's income per year on utilities. People making \$6 or \$7 per hour cannot afford to pay the rising rates. She said people also complained about discourtesy and rudeness encountered in dealing with utilities and some felt they had been singled out for retribution from utility companies. Over the years the consumer has not been represented and KCC usually only hears one side of the argument. CURB now does not exist as a legal entity and cannot appeal through a court of law. To intervene in a rate case they need access to legal staff, good witnesses and good lawyers. She said a strong and independent voice was needed and CURB was an idea whose time had come. A copy of her statement is attached. (Attachment 1).

Keith Henley, Chairman, Kansas Corporation Commission, spoke of how well CURB had represented the consumer in rate cases. The members were energetic, capable, hard-working and enthusiastic. They have made an impact and are an effective voice for residential and small business ratepayers. A copy of his statement is attached. (Attachment 2).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on January 19, 1989

Mrs. Weir-Enegren and Mr. Henley answered questions from the committee and there was some discussion of what the make-up of the Board would be and how would they be appointed. Mr. Henley said if they were appointed by one person they could represent different groups such as aging, farmers, small business and residential. There was also discussion of political appointments.

The Governor has approved their budget for FY90 and it was suggested it might be a good idea to let it go another year to establish a track record.

Mrs. Weir-Enegren said they need to exist statutorily so they could become member of NOCA (National Organization of Consumer Advocates). They would get a lot of training through this organization and it was pointed out that 40 states already have this type of set-up. She was requested to submit a written statement of her presentation.

Mr. Henley said he felt the Board should be under statute at some point and he had mixed emotions about when. This is a policy decision.

A motion was made by Sen. Francisco and was seconded by Sen. Kerr to approve the Minutes of January 17, 1989. Motion carried.

Meeting was adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: SENATE TRANSPORTATION & UTILITIES COMM.

DATE: 1-19-89.

| NAME (PLEASE PRINT)                      | ADDRESS                               | COMPANY/ORGANIZATION |
|------------------------------------------|---------------------------------------|----------------------|
| Bill Riggs                               | D.S.O.B. 4th Floor                    | CURB                 |
| LINDA WEIR-ENEGREN<br>Linda Weir Enegren | 10725 W Central<br>Wichita KS 67212   | CURB                 |
| Keith Henley                             | D.S.O.B. 4th Floor                    | KCC                  |
| Judith McConnell                         | DSOB 4th Floor                        | KCC                  |
| DICK COMPTON                             | P.O. Box 898 - HAYS                   | MIDWEST ENERGY       |
| Woody Woodman                            | PO Box 1679 HCMO                      | KCPK                 |
| Hanna J. Kidd                            | 119.5 Buchanan Ave. 103<br>Topeka, KS | CURB                 |
| Jloyd Spaulding                          | Box 66 N. Newton, KS                  | CURB                 |
| Jerry Goforth                            | 220 E 6th, Topeka                     | S.W. Bell            |
| Rebecca Fin                              | Topeka                                | AMOCO                |
| TREVA POTTER                             | "                                     | PEOPLES NAT. GAS     |
| Mike Peters                              | Topeka                                | Kans. Elec. Coops    |
| Connie M'Guinness                        | Topeka                                | KS Electric Coops    |
| Jim Ludwig                               | TOPEKA                                | KPL                  |
| Tom Taylor                               | Topeka                                | KPK Gas Service      |
| DAN MCGEE                                | GREAT BEND                            | CENTEL ELECTRIC      |
| Randy Berleson                           | Empire Electric                       | Columbar A's         |
| Jerry Coons                              | KG: E                                 | TOPEKA               |
| Mike Reecht                              | AT+T                                  | TOPEKA               |
| Rud Grant                                | TOPEKA                                | KCCI                 |
| Rob Holton                               | Topeka                                | KTA                  |
| Rich Dame                                | Hoisington                            | BLE                  |
| Dennis Taylor                            | <del>Hoisington</del> Topeka          | Governor's Office    |
| George A. Duggan                         | 122-S DSOB                            | Dpt. on Aging        |
| Steve Menough                            | 4th Floor, DSOB                       | KCC                  |

Testimony before the Senate Transportation and Utility Committee

by Linda Weir-Enegren, CURB Chairman

The Citizens' Utility Ratepayer's Board was formed in January, 1988, by KCC Chairman, Keith Henley to represent the residential and small business ratepayer in utility matters before the KCC.

CURB is composed of five volunteer members, one from each Congressional District throughout the state.

CURB'S first meeting was set for May 4, 1988. Staff was hired Sept. 1, 1988.

During its first eight months of operation CURB has researched and intervened in the following utility matters before the KCC:

- KPL Rate Increase Case
- Generic Billing Docket for Gas & Electric Companies
- Fairmont Heights Water Company Rate Case
- Union Gas Pipeline Safety Settlement
- KPL Electric Rate Settlement
- United Telephone Rate Case
- KG & E Ripley Power Plant Closing
- KG & E Show Cause Order
- KCPL Show Cause Order
- KG & E Church Demand Meter Issue
- Sunflower/Garden City Rate Contract
- KG & E Supervised Lender Application

To have accomplished all of this during our initial months of operation has required diligence on the part of each Board Member. Of the eleven public hearings which have been held, Board has been represented at all of them. Two or more Board members have attended eight hearings.

ATT. 1  
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1/19/89

Page 2.

Throughout this difficult formative period for CURB, I have frequently reminded myself of a lesson learned long ago from a geologist friend. "There is", he told me, "no such thing as a sheer cliff."

Should I find myself lost in the wilderness and facing a cliff, lie down and look at it closely, he said. Soon I would find a chasm, a twig, a route to work my way down the structure.

That lesson has served me well as we began our formidable task with so very few resources.

CURB is fortunate to have an especially effective attorney, Bill Riggins. Currently Bill is probably the only attorney working for the state who bears the total responsibility for researching, developing, and trying such a large number of cases as I have previously described.

Hundreds of consumers have responded to our initial efforts by volunteering their time, by testifying and by seeking additional information regarding utility matters.

CURB has been invited to meet with, and has met with management personnel from KPL, KG&E, ARKEA and Union Gas.

We appreciate the cooperative spirit in which such meetings have been initiated and held.

Why have consumers responded so positively to the formation of CURB? First, there is the matter of money. Today the average family spends one full month's income on utility bills. This is more than at any time in the past.

A continuing concern of CURB is the number of working consumers who can't (not won't, but can't) pay their utility bills. They are living so close to the edge, that any unexpected expense such as a medical or dental bill can throw them into a financial crisis.

Those on fixed incomes also have difficulty juggling expenses. When utility bills rise, they often go without food or medicine to see that their bills are paid. With utility bills continuing to rise it is doubtful their concern will cease.

Second, consumers are concerned about the lack of personal courtesy they receive in their dealings with the utilities. Words which we hear on a daily basis are "rude", "discourteous" and worse. We have heard countless tales regarding the unwillingness of utility employees to extend even the most basic assistance to customers.

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Finally, consumers may not be experts but certainly they recognize the signs when something is wrong:

-When 3500 households in the KG&E service area are temporarily disconnected from service because they can not pay their bills, there is something wrong.

-When a utility company in Wichita, Kansas - not New York City, but Wichita, Kansas - installs bullet proof glass in its windows - there is something wrong.

-When an airplane manufacturing company can make their own electricity for less than the electric company can sell it to them, there is something wrong.

These concerns are real. They have been brought about, partially because of the one sided representation before the commission which has occurred in the past.

Any order which is issued by the KCC must be legally consistent with the evidence which is presented. When that evidence is only presented by large industrial customers and utility companies, the decision making process becomes skewed.

Ratemaking is partially a legislative process and partially a political process. With 45 paid utility lobbyists, consumers are at a disadvantage here, too, on the political side.

Fixing what is wrong is what CURB is all about. Giving a voice in utility matters is an idea whose time has come. However, whether it is made independent or continues as a part of the KCC, CURB desperately needs to exist statutorily.

That is because, in its present form, CURB probably is legally unable to appeal KCC Orders which it considers to be incorrect.

To be an effective voice for consumers CURB must be able to disagree with any action taken by KCC staff, utilities, or the Commissioners.

Currently CURB exists at the discretion of the KCC Chairman. Should a disagreement arise between him and CURB, CURB's access to technical staff, as well as its budget for intervention costs could be shut off.

The 950,000 Kansas consumers whose interest CURB serves, deserve more than that.

We have been able to turn out record numbers of consumers to public hearings with only Public Service Announcements. We must do much more than this. To strengthen the utility system consumers must be better informed.

This process of educating consumers and representing their interests can be done for pennies per customer per year.

Probably the fairest method for funding such a program is by assessment. That way, only those who benefit from CURB's efforts will be charged for it, and CURB will be more mindful of those whose interests it represents.

One of the most comforting lessons life teaches those of us whose youth is behind us is, that for everything, there is a season.

Perhaps CURB was not needed in the past, but today it is an idea whose time has come, a concept which has withstood the test of time. CURB is not a group of people, but rather an ideal which is less selfish, more just, and finer and purer than any of us ever can be as human beings.

I always have understood that my role in CURB is to carry the torch but a short distance. I carry the light with gratitude for those who have carried it before, and respect for those who will follow. Following the ill-fated legislative task force, when Keith Henley handed the present CURB Board that torch, it was barely glowing. Now with the time and attention and concern it is a flame to which consumers are drawn to guide the way.

I talk to these people every day. Sometimes they call to thank me for what we are doing. Sometimes they say we give them hope. Sometimes they ask us for help in dealing with a utility company.

We know there are no magic solutions, still we always do what we can.

There is a wonderful children's verse:

"Jimmy danced with witches once -  
And Susie spied and elf.  
But the only magic that I've known  
Is what I've made myself."

We know there is no magic. So we offer to those who seek us out, the only thing we know to do...and it is what we have come here today to offer you...that we link ourselves, arm in arm, and together we'll study the cliff.

REMARKS BY  
KEITH R. HENLEY  
CHAIRMAN, KANSAS CORPORATION COMMISSION  
BEFORE THE SENATE TRANSPORTATION & UTILITIES COMMITTEE  
January 19, 1989, 9:00 a.m.  
Room 254-E, State House

"THE CITIZENS' UTILITY RATEPAYERS BOARD -- ONE YEAR LATER"

GOOD MORNING. IT IS A PLEASURE FOR ME TO COME BEFORE YOU TODAY TO BRING YOU UP-TO-DATE ON THE STATUS OF THE CITIZENS' UTILITY RATEPAYERS BOARD -- COMMONLY REFERRED TO AS CURB -- ONE YEAR AFTER ITS INCEPTION.

I THOUGHT I MIGHT BRIEFLY DISCUSS CURB'S EVOLUTION. FOR SEVERAL YEARS THE CONCEPT OF A CURB -- AN ORGANIZATION THAT WOULD REPRESENT RESIDENTIAL AND SMALL BUSINESS CUSTOMERS IN REGULATORY UTILITY PROCEEDINGS BEFORE THE KANSAS CORPORATION COMMISSION -- HAS BEEN DISCUSSED AND LEGISLATION HAS BEEN INTRODUCED.

IN APRIL OF 1987, GOVERNOR HAYDEN APPOINTED A TASK FORCE COMPRISING CONSUMERS, UTILITY REPRESENTATIVES, LEGISLATORS, AND

ATT. 2  
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1/19/89

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EXECUTIVE DEPARTMENT OFFICIALS. THE TASK FORCE, HOWEVER, WAS UNABLE TO ACCOMPLISH ITS MISSION: TO RECOMMEND TO THE GOVERNOR A SYSTEM THAT WOULD PROVIDE REGULAR AND ONGOING CONSUMER REPRESENTATION IN THE UTILITY REGULATORY PROCESS.

GOVERNOR HAYDEN AND I WERE DISAPPOINTED THAT THE TASK FORCE MEMBERS WERE UNABLE TO AGREE ON A RECOMMENDATION. HE AND I THEN WORKED TOGETHER ON A PLAN THAT WOULD CREATE A CURB AND AT THE SAME TIME AVOID SOME OF THE PROBLEMS, PRIMARILY THE FUNDING ISSUE, THAT CAUSED DISAGREEMENT AMONG THE TASK FORCE MEMBERS.

WITH GOVERNOR HAYDEN'S SUPPORT, IN EARLY JANUARY OF 1988 I CREATED CURB AND THE OFFICE OF THE CONSUMER COUNSEL TO REPRESENT RESIDENTIAL AND SMALL COMMERCIAL RATEPAYERS BEFORE THE KCC.

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DURING MY YEARS AS A KCC COMMISSIONER, I HAD NOTICED THAT, IN MATTERS BEFORE THE COMMISSION, LARGE COMMERCIAL AND INDUSTRIAL CUSTOMERS MANY TIMES HIRED THEIR OWN ATTORNEYS TO PROVIDE SPECIFIC REPRESENTATION FOR THEIR CLIENTS' INTERESTS. THE KCC STAFF, MEANWHILE, WAS EXPECTED TO BALANCE THE INTERESTS OF ALL CUSTOMER CLASSES IN FORMULATING ITS RECOMMENDATIONS.

IT SEEMED TO ME THAT SPECIFIC REPRESENTATION FOR RESIDENTIAL AND SMALL BUSINESS RATEPAYERS COULD ONLY ENHANCE THE REGULATORY PROCESS FOR CUSTOMERS WHO GENERALLY DO NOT HAVE THE COMPETITIVE ALTERNATIVES THAT LARGE CUSTOMERS DO.

I RECOGNIZED THAT THE CHARTER BOARD MEMBERS WOULD BE CRITICAL TO CURB'S EARLY DEVELOPMENT AND EVENTUAL SUCCESS. AS IT HAS TURNED OUT, I DON'T THINK IT WAS POSSIBLE THAT I COULD HAVE SELECTED A MORE ENERGETIC, CAPABLE, HARD-WORKING AND ENTHUSIASTIC BOARD. CHAIRMAN LINDA WEIR-ENEGREN, OF WICHITA, HAS

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**DEVOTED COUNTLESS HOURS TO GETTING CURB OFF ON THE RIGHT FOOT. SHE BRINGS ENTHUSIASM AND BOUNDLESS ENERGY TO HER POSITION AND HAS CERTAINLY NOT BEEN AFRAID TO TACKLE CONTROVERSIAL ISSUES HEAD-ON. LINDA HAS BEEN ABLY ASSISTED BY VICE-CHAIRMAN STACY OLLAR, JR., OF SHAWNEE; J. LLOYD SPAULDING, OF NORTH NEWTON; DONNA J. KIDD, OF TOPEKA; AND RANDAL K. LODER, OF GARDEN CITY. THESE MEMBERS VOLUNTEER THEIR TIME AND ENERGY BECAUSE OF THEIR STRONG COMMITMENT TO THE BOARD'S CONSTITUENCY.**

**HAS CURB MADE AN IMPACT? YES, I THINK THAT'S OBVIOUS. THE BOARD'S INTERVENTION IN THE KPL GAS SERVICE RATE CASE DRASTICALLY INCREASED PUBLIC PARTICIPATION AT KCC PUBLIC HEARINGS FROM 15 PUBLIC WITNESSES IN FOUR 1986 KPL PUBLIC HEARINGS TO NEARLY 100 IN FOUR 1988 PUBLIC HEARINGS. THESE PUBLIC WITNESSES PROVIDED THE BASIS FOR THE COMMISSION TO REJECT THE COMPANY'S PROPOSAL TO INCREASE ITS MONTHLY CUSTOMER SERVICE CHARGE. CURB'S EFFECTIVE**

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PARTICIPATION IN THE KCC's RECENT INVESTIGATION OF THE KCC's ELECTRIC AND NATURAL GAS UTILITIES' BILLING PRACTICES RESULTED IN SOME INCREASED CONSUMER SAFEGUARDS.

AS ONE CAN TELL FROM READING THE NEWSPAPERS, CURB HAS NOT BEEN SHY ABOUT EXPRESSING ITS VIEWS, AND HAS DIRECTED ITS CRITICISMS AT NOT ONLY THE UTILITY COMPANIES, BUT OUR STAFF AND THE COMMISSION AS WELL. I HAD ORIGINALLY THOUGHT THAT IT MIGHT TAKE A WHILE FOR CURB TO GET ROLLING, BUT THANKS TO THE COMMITMENT OF CHAIRMAN WEIR-ENEGREN, HER DEDICATED BOARD MEMBERS AND CURB ATTORNEY BILL RIGGINS, THE BOARD HAS QUICKLY EVOLVED INTO AN EFFECTIVE VOICE FOR RESIDENTIAL AND SMALL BUSINESS RATEPAYERS.

CURB HAS MADE PROGRESS ON OTHER FRONTS AS WELL. THE KCC HAS COMMITTED \$10,000 PER RATE CASE FOR CURB TO HIRE REGULATORY CONSULTANTS. CURB'S BUDGET WAS FINANCED FROM WITHIN THE KCC'S

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**HENLEY, TRANSPORTATION & UTILITIES PRESENTATION  
PAGE 6**

**EXISTING BUDGET FOR FISCAL YEARS '88 AND '89. FOR FY '90, CURB BUILT ITS OWN BUDGET, WHICH WAS SUBMITTED TO THE BUDGET DIVISION WITHOUT KCC REVIEW. FOR FISCAL YEAR '90, GOVERNOR HAYDEN HAS RECOMMENDED A CURB OPERATING BUDGET OF \$257,000, WHICH WOULD INCLUDE \$155,000 TO HIRE CONSULTANTS. CURB IS ASSISTED BY A SECRETARY AND A NEWLY-FILLED POSITION, VOLUNTEER SERVICES COORDINATOR.**

**CURB HAS BROUGHT NEW IDEAS BEFORE THE COMMISSION AND, TO SAY THE LEAST, HAS CAUGHT THE ATTENTION OF THE STATE'S UTILITIES. I WOULD SAY THAT THE BOARD HAS BEEN EVERYTHING I HAD HOPED IT WOULD BE -- AND MORE. CURB REPRESENTS WHAT HAS BECOME RARE THESE DAYS -- A GOOD BARGAIN -- BY PROVIDING RATEPAYERS WITH EFFECTIVE REPRESENTATION AT A MINIMUM COST.**

**- kcc -**

**(S.A.M.)  
(1-18-89)**