

Approved 2/13/89 Date _____

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./p~~xx~~ on February 8, 19 89 in room 254-E of the Capitol.

All members were present ~~except~~.

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, CURB
Margaret Bangs, Co-Chair of CURB Coalition
Margaret Miller, Wichita, State Legislative Committee, AARP
Ralph Turner, Douglas County, Silver Haired Legislature
Pat Lehman, Wichita
Charlene Stinard, Kansas Natural Resource Council
Ed Bruske, President, Kansas Chamber of Commerce and Industry
Tom Taylor, KPL Gas Service
Treva Potter, Peoples Natural Gas
Donald P. Schnacke, Kansas Independent Oil and Gas Association
Rob Hodges, Kansas Telecommunications Association

The committee had previously discussed the request by the Department of Revenue for a bill for improperly issuing 30-day temporary registration permits. A motion was made by Sen. F. Kerr and was seconded by Sen. Martin to introduce the proposed request as a committee bill. Motion carried.

HEARING ON S.B. 105 and S.B. 123 - An act establishing a citizens' utility rate board. (CURB)

Sen. Morris said S.B. 105 would make the Board statutory and this was important to make the Board independent. It would also subject them to the appropriations process for funding.

Sen. Martin said S.B. 123 would do the same things and would allow the Board to make their own decisions and to have their own budget.

PROPOSERS

Linda Weir-Enegren, Chairman, CURB, said this legislation would make them eligible for national organizations. The Board would be able to handle appeals through the proper legal channels. She said this was a first step on the way to being an effective organization for consumers. A copy of her statement is attached. (Attachment 1).

Margaret Bangs, Co-chair of CURB Coalition, expressed her support for these bills and said forty-one states already have such consumer advocate offices. A copy of her statement is attached. (Attachment 2).

Margaret J. Miller, AARP, said they support these bills both at the state and national levels. A copy of her statement is attached. (Attachment 3). She was asked whether her group had supported the divestiture of the telephone company and if her group had been active in that. She said she would furnish the information.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E Statehouse, at 9:02 a.m./~~pm~~ on February 8, 1989

Ralph Turner, Kansas Silver Haired Legislature, said this legislation is necessary to represent the residential and small commercial ratepayer. A copy of his statement is attached. (Attachment 4).

Pat Lehman, said she was one of the original founders of volunteer groups in this state to formally intervene in utility rate hearings on behalf of the residential utility customers. She said there was need for a Board that would be independent of KCC. A copy of her statement is attached. (Attachment 5).

Charlene Stinard, Kansas Natural Resource Council, said they support these bills. A copy of her statement is attached. (Attachment 6).

OPPONENTS

Ed Bruske, President, KCCI, said they support the idea of additional emphasis on consumers' interest, but it should be directed by KCC. He felt this was another example of unnecessary government growth and expense and would hurt businesses by a "trickle down" theory. Their objection was to making it statutory. A copy of his statement is attached. (Attachment 7). He was questioned as to whether there had been a survey of small businesses to get their opinion on this issue. He said he would furnish the information.

Tom Taylor, KPL Gas Service, said the consumer's interests are being served well by KCC and there have been stable or declining natural gas rates in Kansas. He said this legislation would lead to a growing bureaucracy. A copy of his statement is attached. (Attachment 8).

Treva Potter, Peoples Natural Gas, said this would duplicate the work being done by the present Board and KCC and legislation was unnecessary. This has the potential for becoming political and could establish a bureaucracy which could not be easily abolished. A copy of her statement is attached. (Attachment 9).

Don Schnacke, Kansas Independent Oil and Gas Association, said this legislation could go much further than intervening in citizens' utility rates. He had a suggested amendment which would limit the Board to utility rates. A copy of his statement and proposed amendment is attached. (Attachment 10).

Rob Hodges, KTA, said CURB should be allowed more time to operate in its present form before a decision on organizational change should be considered. This could be considered if KCC was no longer be effective. A copy of his statement is attached. (Attachment 11).

The Chairman said this meeting would be continued Monday at 9:30 a.m. to hear the proponents and opponents that were unable to be heard today.

Meeting was adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: SENATE TRANSPORTATION & UTILITIES COMM.

DATE: 2-8-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
William M. Bradshaw	1339 S.W. Wesleyan Ave Topeka, Ks 66604	Association of Retired Federal Employees
Margaret Ahrens	4400 SW 17th Topeka, Ks 66604	Ks. Chapter Sierra Club
Stuart Wheeler	PO Box 608 Hastings, Ne, 68901	KN Energy, Inc.
Jack Slaves	1205 Market Wichita, Kans.	P-H East-Pipeline
DEFF RUSSELL	UNITED TD. G. of KS	UNITED TD. G.
Woody Woodman	KC P&L	1330 Bell KC Mo.
Wayne Leonard	KG & E	
Jim Gartner	Southwestern Bell	Topeka, Kans.
Debbie Vignatelli	Southwestern Bell	Topeka, KS
Michael Wolf	Topeka	Common Cause
Linda Wain Engren	10725 W Central Wichita Ks 67212	CURB
Billy Riggins	D.S.O.B. 4th Floor	"
Stacy Voller Jr.	4826 Court Line KCC	CURB
Wanda J. Kield	1195 Buchanan Topeka	CURB
Pat Lehman	515 Market Wichita 67204	
Don Schuack	Topeka Ks	KIOGM
Mike Gerneman	Wichita	Brew, Military Amplex
Randy Burleson	Columbus, Ks	Empire District Fleet
David Brevity	Topeka	KCPR
Frank Cero, Jr.	KCC, DSOB	KCC
Justin McConnell	KAC, DSOB	KCC

Good morning. I am Linda Weir-Enegren, a volunteer for the state of Kansas, serving as the state chairman for the Citizens' Utility Ratepayers Board, also known as CURB.

CURB wishes to thank all legislators who have worked on Senate Bills 105 and 123, and supports Bills 105 and 123.

As I said when I spoke to you two weeks ago, statutory recognition of CURB is a practical matter. There are three basic reasons for that.

It is my understanding that such statutory recognition would make us eligible for membership into NASUCA, which would provide us with access to a sophisticated network of information at a very reasonable cost and enhance our effectiveness tremendously.

Second, statutory recognition would provide assurance that consumer representation would be ongoing, no matter who occupies the position of the State Corporation Commission chair.

Third, and probably the most important issue is whether CURB has the authority to appeal, through the proper legal channels, a State Corporation Commission order which it believes to be legally incorrect. This is an important matter, both philosophically and practically speaking.

Philosophically speaking, surely when we value our system of democracy as we do, it almost would seem ironical to offer consumers a partial legal voice but fail to provide full legal recourse to those we are to serve, and since industrial or other special interveners can appeal decisions should they believe them to be falsely based, surely small ratepayers should have that same right.

From a practical point of view, the power of appeal for a state consumer counsel has altered the ratemaking process. Recently in Pennsylvania, the state consumer counsel argued that their state utility commission had erred in issuing an order regarding the Duquesne Light Company. After two appeals, the case was decided by the U.S. Supreme Court in favor of the consumer counsel, who was there to represent the interests of the ordinary people.

To assure that your bill protects ratepayers in the way that I believe you want to have them protected, I would ask your consideration for an amendment which specifically states (Sec 2) that the consumer counsel may appeal orders of the State Corporation Commission through the courts.

I believe that your intent in drafting this bill is to give CURB the ability to represent the point of view of the consumer in utility matters. That is where its efforts and allotted financial resources must be placed. In the matter of funding the operation of CURB, I would urge you to dismiss any method of funding which would require the diversion of CURB's attention from its primary mission.

ATT. 1
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2/8/89

Last fall, following a utility hearing in Kansas City, I was approached by a utility executive who was uncharacteristically rude to me. I say this because our relationship with utility employees has been a cordial one.

I will relay to you, as nearly as I can, his words to me: "We aren't worried about CURB," he said. "As far as we are concerned, your organization is appropriately named - it is nothing more to us than a bump in the road." One of CURB's supporters standing nearby was as abruptly taken back by that remark as I. Later she asked me why I made no response to him. I thought about that for a long time. Aside from the obvious fact that it would only have wasted my breath to make a response, the real answer came to me in one of those moments which each of us experience often - at the end of a difficult day, when the flurry has stopped, in the quiet of our homes when we are alone with ourselves. I didn't respond because I think he might be right.

To nurture and grow an organization which truly listens and responds to concerns of almost a million people is a difficult task. Whether CURB is able to meet that challenge or only serve as a bump really is what this bill is all about.

With the recommendation of this bill, you will place the first stones in the foundation for solid consumer representation.

I'm not a trained politician. We all look to your experience as builders as you consider how to best lay those stones.

Thank you for allowing me to come here today. I consider it a real privilege to be a part of this process.

1

February 8, 1989

HEARING ON SB 105 and SB 123 BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

I thank you for the opportunity to appear before you this morning, Mr. Chairman and members of the committee. I am Margaret Bangs, Co-chair of the Coalition for a Residential Utility Consumer Office whose members include the American Association of Retired Persons, The Retired Federal Employees of Kansas, The Silver Haired Legislature, Common Cause, Sierra Club, and the Kansas Natural Resources Council. Members of our coalition strongly support SB 105 and SB 123 which would establish by legislative statute an independent Citizens Utility Ratepayers Board.

The passage of these bills would insure the permanence and stability of CURB. There might not always be a chairman of CURB as dedicated, tireless and effective as Linda Weir-Enegren, nor a KCC Chairman as supportive of a CURB within the KCC as Keith Henley. Governor Mike Hayden has also demonstrated his support for small ratepayer representation in the regulatory system when he appointed a task force, of which I was a member, in 1987 to recommend to him legislation which would provide small ratepayers representation in the regulatory process.

Forty one states, including neighboring Missouri, Oklahoma and Nebraska, already have utility consumer advocate offices because their state legislators recognized that small ratepayers were not being adequately represented in the rate-making process. A CURB, established by legislative statute and adequately funded and staffed, opens up the regulatory system, giving all--not just the economically powerful--a chance to make their case, to intervene before the KCC, thus correcting a flaw or weakness that existed previously.

The KCC is mandated by law to balance the needs of the utilities and the interests of their customers. This is not easy to do; and when the KCC has to make these difficult and hard decisions, small ratepayers must be heard, thus achieving a more level playing field. By law, the KCC balances interests and does not favor any party. The KCC is definitely not a consumer protection agency. While the KCC staff represents the general public, it does not represent a specific class of customers, such as small ratepayers.

By creating CURB, KCC Chairman Henley demonstrated his recognition of the need for specific small ratepayer representation. Both Commissioner Wright and Commissioner Kowalewski have also voice their support for small ratepayer representation, saying they believe it will enhance their decision-making process and increase consumer confidence in the process of government regulation. The more information the better, they say, when they must make million dollar, even billion dollar decisions. Yet, some critics in the past have maintained that an independent ratepayers board would be a duplication of the KCC itself.

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2/8/89
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Some critics say that utility ratepayers, who also happen to be voters, are satisfied and have no quarrel with their utility bills. This is not what members of our coalition have been hearing; and a 1988 survey for the Wichita-Sedgwick County Partnership for Growth, or Wi/SE, found that the three major concerns or complaints of the residents of Sedgwick County were roads, taxes and utility bills. Other critics of a consumer utility advocate office point to cost; but it is the supreme irony that utility customers are assessed on their bills for the expenses that utilities incur while seeking rate hikes before the KCC. Not many ratepayers are aware of this irony, that they are paying for the effort to raise their bills.

Between utilities and their customers there has always been an imbalance both of financial power and political power. Small ratepayers have lacked the clout that the utilities and large industrial customers possess. Some 100 utilities come under KCC jurisdiction, and the majority have at least one lobbyist who roam the corridors of the Capitol. They can have, therefore, a nearly one-on-one relationship with the 165 members of the legislature. Not many small ratepayers are able to personally petition their legislators and be heard in this manner, nor do they often have an opportunity to take a legislator to lunch.

It is exceedingly gratifying and encouraging that this Senate Transportation and Utilities Committee is holding this hearing today and receiving testimony on SB105 and SB 123, bills that will establish an independent CURB by legislative statute. It is my deep hope that the committee will vote favorably on these bills. Thank you.

Margaret Bangs
944 St. James Place
Wichita, KS 67206
316-682-5763

I am here today to speak on Senate Bills 105 & 123 for the State Legislative Committee on AARP. AARP, both at the state and national levels, has long advocated representation for the residential consumer in utility regulatory proceedings. The AARP Handbook on Legislative Policy says: "The Association advocates establishing adequately staffed consumer advocacy organizations to represent residential ratepayers at public hearings before regulatory bodies, financed by a guaranteed assessment on, or a remittance from utilities or through the state general fund. In establishing such bodies by law, the following criteria should be considered: (a) quality of representation: advocates must have resources and skills to provide necessary expertise; (b) diversity of representation: advocates must be able to represent views of different classes of citizens on a variety of policy issues, especially those groups historically underrepresented; (c) accountability: advocates must be accountable to the electorate and/or constituents, and able to maintain their independence in representing consumer interests."

I would like to give one example of what the Citizens Utility Ratepayers Board can and did do. Last year when KPL Gas Service asked for a rate increase, the company requested a large portion of it on the customer service charge. This charge has been \$5 for some time; the company asked for a customer service charge of \$7.97, or a nearly 60% increase. The KCC disallowed this increase and CURB played an important part. CURB intervened and objected to this increase, pointing out its bad features, such as the inordinate increase and the regressive effect on low-income customers and those trying to conserve. Also the publicity CURB was able to bring to the case brought out crowds of utility customers to speak at the public hearings. The disallowance of this customer service charge saves each natural gas customer nearly \$36 a year and is now saving KPL customers considerably over \$1 million each month. This is the type of help that residential utility customers can and should receive.

Soon CURB will be intervening in the United Telephone case in which the telephone company has asked for a very large increase on local service. Again quoting from the AARP Legislative Handbook, "AARP believes that the divestiture of AT&T should not result in a departure from the national and state goals of universal and affordable telephone service. The Association believes the rate increases currently before the state regulatory commissions gravely threaten universal service and thus would deny low-income families and individuals--particularly the homebound and handicapped--access to the social and emergency service on which they rely."

We believe that strengthening CURB is a step forward in furnishing the representation that utility customers need in the regulatory process.

CURB under Chairman Linda Weir-Enegren and her fellow board members, Dr. Stacy Ollar, Lloyd Spaulding, Donna Kidd and Randal Loder and Counsel William Riggins have shown, even with meager staff and budget, what they can do to help utility customers. AARP strongly urges the passage of Bill 105 or 123 to carry on the good work which has been started. We urge the setting up of CURB as a legal entity, independent of the KCC.

Margaret J. Miller
6807 E. Bayley
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(316) 686-2555
Member: State Legislative
Committee, AARP

ATT. 3
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2/13/89

TESTIMONY ON SENATE BILLS 105 AND 123 BEFORE THE TRANSPORTATION AND UTILITIES
COMMITTEE OF THE KANSAS SENATE, FEBRUARY 8, 1989

MISTER CHAIRMAN AND MEMBERS OF THE COMMITTEE, I'M RALPH TURNER, DELEGATE FROM DOUGLAS COUNTY TO THE KANSAS SILVER HAired LEGISLATURE. I'VE JUST COMPLETED MY SECOND TERM AS PRESIDENT OF THE BOARD OF DIRECTORS OF THE KANSAS SILVER HAired LEGISLATURE, INC. I'M ALSO SECRETARY OF THE JAYHAWK AREA AGENCY ON AGING BOARD OF DIRECTORS, AND WAS APPOINTED TO THAT BOARD BY THE DOUGLAS COUNTY COMMISSIONERS. FOR A GOOD MANY YEARS, I REPRESENTED THE KANSAS COALITION ON AGING ON THE CONSUMER INFORMATION BOARD OF THE KANSAS CORPORATION COMMISSION.

DURING THE YEARS, MY CHIEF CONCERN HAS BEEN FOR THE ELDERLY AND DISABLED-- PARTICULARLY THE LOW INCOME. I HAVE APPEARED BEFORE THE KCC AND GIVEN TESTIMONY ON MANY OCCASIONS, INCLUDING WOLF CREEK AND THE TRAILWAYS ABANDONMENTS. THE EXPERIENCE I'VE HAD IN THE PAST CONVINCES ME THAT RESIDENTIAL AND SMALL COMMERCIAL RATEPAYERS HAVE A NEED FOR A CONSUMER ADVOCATE.

WHEN I MAKE THIS STATEMENT, I'M NOT IN ANY WAY IMPLYING THAT THE KCC IS NOT SERVING RESIDENTIAL AND SMALL COMMERCIAL RATEPAYERS. HOWEVER, THE KCC AND THE KCC STAFF HAVE TO BALANCE EVERYBODY'S INTERESTS--THE UTILITIES AND ALL CLASSES OF CUSTOMERS. UTILITIES ARE IN BUSINESS TO MAKE A PROFIT--THE SAME BEING TRUE OF THE LARGE CUSTOMERS OF UTILITIES. THEREFORE, IN BOTH CASES, THEY ARE PROTECTING THEIR OWN INTERESTS AND NOT THE INTERESTS OF THE SMALL RATEPAYER.

INDIVIDUALS LIVING ON LOW AND FIXED INCOMES IN MANY CASES SPEND GREATER PARTS OF THEIR INCOMES ON UTILITY BILLS. THIS IS TRUE RIGHT NOW DUE TO TEMPERATURES BEING CLOSE TO 0 DEGREES AND BELOW. IN PASSING, WHAT WE ARE NOW EXPERIENCING POINTS OUT THE IMPORTANCE OF ADEQUATE LIEAP FUNDING.

AS WE WELL KNOW, THE PRICE OF UTILITY SERVICE CONTINUES TO INCREASE, AND EXPERIENCE HAS BROUGHT OUT THE FACT THAT SENIOR CITIZENS WILL PAY UTILITY BILLS

ATT. 4

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2/8/89

BEFORE THEY PAY ANYTHING ELSE--MAYBE EVEN SHORTING THEMSELVES ON FOOD. THIS AGAIN MAKES IT IMPORTANT THAT SOMEONE ADVOCATE FOR THEIR INTERESTS SO THEY DO NOT GET LOST IN THE SHUFFLE OF HIGH UTILITY RATES.

I'D LIKE TO CITE A PERSONAL EXPERIENCE OF A CASE I AM DOING VOLUNTEER WORK ON. THIS LADY LIVED ALONE. HER SOLE INCOME WAS SOCIAL SECURITY OF LESS THAN \$400 A MONTH. THE COST OF HER UTILITIES WERE UPPERMOST IN HER MIND. FORTUNATELY, LIEAP FUNDS WERE AVAILABLE.

AT THE PRESENT TIME, 38 OTHER STATES HAVE A LAW THAT ESTABLISHES A CONSUMER UTILITY ADVOCATE. STATES SUCH AS MISSOURI, INDIANA, IOWA AND COLORADO. INDIANA ESTABLISHED SUCH AN OFFICE MORE THAN 55 YEARS AGO.

WE HAVE A CITIZENS' UTILITY RATEPAYERS BOARD AND A CONSUMER COUNSEL NOW AND THEY ARE DOING A GREAT JOB WITH WHAT LITTLE THEY HAVE TO WORK WITH. BUT THEY DON'T EXIST AS A MATTER OF LAW, AND THEY COULD BE GONE TOMORROW IF THE RIGHT PERSON OR PERSONS WANTED THEM TO BE GONE TOMORROW.

I WOULD HOPE THAT THIS COMMITTEE WOULD PASS ON THIS LEGISLATION FAVORABLY SO THAT SMALL RATEPAYERS IN KANSAS WILL BE ASSURED THAT THEY WILL HAVE SOMEBODY TRYING TO SAVE THEM MONEY ON THEIR UTILITY BILLS NOT JUST TODAY BUT NEXT YEAR AND IN YEARS TO COME.

THANK YOU. I APPRECIATE HAVING THIS OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE.

TESTIMONY OF PAT LEHMAN, BEFORE THE KANSAS SENATE COMMITTEE ON
TRANSPORTATION AND UTILITIES, FEBRUARY 8, 1989, TOPEKA, KANSAS

Chairman Morris, Ladies and Gentlemen of the Committee, my name is Pat Lehman, I live at 515 Manlo Drive, Wichita, Kansas.

I appear before you today as an individual who has spent considerable time, energy, and personal resources for the last fifteen years to try to see that the concerns of residential utility customers were given adequate public hearing and representation.

I was one of the original founders and organizers of the largest, to my knowledge, volunteer groups in this state who formally intervened in utility rate hearings on behalf of residential utility customers.

From that experience, it became clear to me that a volunteer effort could not be sustained indefinitely, nor, in my opinion, could residential, non-profit, and small business utility customers expect to receive adequate representation of their concerns from one Kansas Corporation Commission Staff person, who by law must also represent the concerns of the largest corporate utility clients in our states.

I joined with others in requesting formal legislative approval and recognition for non-profit, non-tax funded organization to legally represent residential utility customers concerns with regard to utility matters.

Members of the Kansas Legislature declined to pass the enabling legislation needed to allow the formation of such an organization, voting instead to establish a citizen's utility ratepayer board.

I have watched with interest, the activities of CURB since its formation.

It has been my experience that the simplest way to defuse a "hot" political item is to simply appoint a board, and charge them with the responsibility of attending to the problem, but fail to provide adequate funding for staff, counsel, etc. necessary to do the job.

Then when complaints are received about the problem, simply point to the Board or Agency, and say "that's their responsibility" and go on.

I do not want CURB to be such a sham board, but rather hope that you will make the decisions necessary to allow this Board to do the work and assume the responsibility that you are giving to them.

With regard to S.B. 105 and 123, I would strongly encourage you to do the following:

1. Make CURB and the Consumer Counsel independent from the Kansas Corporation Commission with regard to personnel and fiscal matters. To legitimize the work of CURB, I believe this is necessary. If the chair of the KCC retains the right to give or deny staff to CURB, and/or gives members of the CURB the choice of intervening on behalf of customers in one rate case, but only at the expense of previously

ATT. 5

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2/8/89

filed cases, then I believe that you have indeed subverted the intent of the Legislature in creating CURB.

2. The bill must identify the funding source for CURB. No Board or Agency can perform its tasks without a funding source, and dedicated budget. I know that present members of CURB have paid for functions of CURB from personal funds in order to get the work done that CURB is responsible for doing. This situation simply cannot continue.

3. CURB must be allowed to appeal KCC decisions. If CURB is to truly function as it is intended, that is to represent the interests of residential utility consumers, it may, at times find it necessary to appeal decisions of the KCC. This right must be spelled out clearly in legislation, to avoid lengthy court hearings.

4. While the Senate Bills do indicate that consumer counsel is allowed, I would urge you to also recognize that the CURB will on occasion find it necessary to retain expert consultants in the increasingly complex utility matters. I do not believe that we in the public would expect one person to be an expert in the field of criminal law, and tax law, and I believe it is also unrealistic to anticipate that a single counsel can be an expert on Kansas Utility law, as well as an expert on the safe construction of gas pipelines, and nuclear power generation.

I do thank you as members of the committee for allowing this hearing on these proposed bills, as well as thanking the authors and sponsors of the bills for your recognition of the growing problems faced by residential utility customers in particular.

I would hope that you will consider the suggestions that I have made in the same light that I have made them, that is an appreciation of the start that you have made, and my belief that you do wish to allow residential utility consumers real and meaningful representation in utility matters.

Kansas Natural Resource Council

Testimony before the Senate Committee on Transportation and Utilities
SB 105, SB 123: establishing a citizens' utility ratepayers board

Charlene A. Stinard, Kansas Natural Resource Council

February 8, 1989

My name is Charlene Stinard and I represent the 700 members of the Kansas Natural Resource Council who promote sustainable natural resource policies for the state of Kansas.

We applaud the interest and action of the Senators who introduced these bills granting statutory independence to the Citizens' Utility Ratepayers Board.

When Kansas Corporation Commission Chairman Keith Henley created the C.U.R.B. in 1988, Governor Hayden responded with five excellent appointments. The board followed suit, hiring an experienced advocacy attorney.

The bills before the Committee today granting statutory authority to the C.U.R.B. indicate a legislative commitment to ensure fair representation for residential and small business consumers in utility rate hearings.

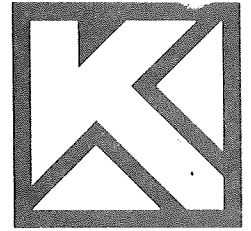
We urge the Committee's full support for this effort.

ATT. 6
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2/8/89



LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 105 & 123

February 8, 1989

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
Senate Committee on Transportation & Utilities

by

Ed Bruske
President

Mr. Chairman and members of the Committee:

On behalf of KCCI, I would like to take this opportunity to oppose Senate Bills 105 and 123. Our opposition to these bills is consistent with our views as it relates to our testimony last year. As many of you remember, KCCI reluctantly agreed to the establishment of a Citizens Utility Rate Board last year. Our fear at the time was that this was another example of unnecessary government growth and expense. It is still our opinion

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

ATT. 7
T&U
2/8/89

that the Kansas Corporation Commission was created for the prime purpose of making sure that a fair and equitable balance exists between the utility companies, their investors and the consumers. In our opinion, the Kansas Corporation Commission has done an outstanding job of balancing the utility rate situation in Kansas.

Last year we supported the idea that if the Corporation Commission thought that additional emphasis should be concentrated on the consumers' interest, then by all means additional staff and expense should be directed to that effort by the Corporation Commission.

This proposed legislation begins to separate the Corporation Commission into various interest groups, causing unnecessary conflict and duplication and delays in establishing rates.

It's our opinion this proposal will simply end up hurting the very individual it's intended to protect. As efforts are made to transfer the cost of utility services to the business sector, primarily large business, they in turn will attempt to pass those costs on to smaller businesses, not to mention their customers. In turn, those businesses will attempt to pass the costs on to their customers. If small business cannot pass the costs on to their customers, they are faced with cutting expenses, which is often job opportunities. In other words, the cycle simply perpetuates itself.

This proposal sends the wrong message to large businesses. We realize that the word "big business - large corporations" is often considered a dirty word. But they are an important part of the machinery, or economic engine, that drives the creation of our small business efforts, particularly here in Kansas. It is our strong feeling that the existing situation we now have is adequate. If there are any improvements that have to be made to protect the consumer, they can be made through managerial changes within the Corporation Commission.

7-2

Testimony Before
SENATE TRANSPORTATION AND UTILITIES COMMITTEE
SB 105 and SB 123
Establishing the Citizens Utility Ratepayer Board

By TOM TAYLOR
KPL GAS SERVICE
Manager of Governmental Affairs

February 8, 1989

My name is Tom Taylor. I am manager of Governmental Affairs for KPL Gas Service. From 1979 until 1984, I was the Public Information Director for the Kansas Corporation Commission, so I have been involved with both sides of the regulated utility field over the past 10 years.

The Kansas Corporation Commission was established by the Legislature and Governor Alf Landon in 1933. The KCC regulates utilities as an agency of the Legislature, in accordance with laws passed by the Legislature. Having neither the time nor the necessary rate expertise, legislators did not want to hear and decide rate cases each year in addition to their legislative duties. They turned that task over to the KCC, to operate according to legislative direction. This system has worked well for Kansas for more than 55 years. The KCC staff was set up, separate from the three commissioners, from the very first to represent the general public. The Commissioners then listen to all sides and viewpoints -- the staff, utilities, and intervenors as widely divergent as General Motors and Kansas Legal Services. The three commissioners then decide the case, weighing all of the evidence presented, much like judges.

ATT. 8
T&U
2/8/89

Because the KCC staff has been so specifically directed to represent the general public through all of these years, we question the need to set up yet another state agency to duplicate their efforts. The big growth in CURBS began in the late 1960s and continued through the early 1980s -- an era of high inflation, skyrocketing energy prices and oil embargoes, yearly utility rate cases and expensive new generating plants coming on line and being reflected in customers' bills. None of that is happening now. We have been in a period of stable -- and in many cases decreasing -- utility prices over the past several years.

The demand for a separate CURB makes it appear the state is not doing its part in regulating utilities, or that utilities are running roughshod over consumers. That is not the case in Kansas.

KPL Gas Service has electric rates well below the national average, and gas rates among the very lowest in the nation. This is no accident. It is because of tight cost controls by the Company, effective regulation by the Commission and because we purchase the lowest cost fuel supplies available -- whether it's coal with which to generate electricity, or natural gas for our customers.

KPL Gas Service has had a series of electric rate decreases since 1983. It's been six years since we've had a retail electric rate increase. The average residential customer's bill has been reduced by nearly 20 percent in this period.

Our residential electric rate today is about 10 percent below the national average, and, our recently negotiated settlement with the KCC means no electric rate increases for at least another two years.

The story is much the same for our natural gas rates. Our natural gas prices peaked in 1984. The price today is lower than it was five years ago. A fall survey by the American Gas Association ranked KPL Gas Service 122nd among 130 companies nationwide, meaning only 8 companies in the survey had lower prices. Our price for 10 mcf of gas (an average monthly bill) was \$39.62, while the U.S average was \$53.97. KPL Gas Service's price was 26 percent lower than the national average.

Customers are not mistreated in Kansas. Since 1979, the KCC has instituted some of the strongest billing practices and shut-off policies in the nation, and those policies were recently strengthened by the Commission.

KPL Gas Service is very strong on customer service. For many years we have had a customer advisor program to help those customers who are having problems paying bills. We provide budget counseling and extended payment agreements and we get those customers in touch with local community assistance agencies for food, clothing or energy assistance money. We work very closely with those agencies. We help customers fill out the necessary SRS or LIEAP forms, and we get them on hot

meals programs when we discover those needs while making home visits. We operate safety and crime watch programs and assist the elderly in the various neighborhoods where we are working every day. We are active in economic development programs to help the communities grow and prosper where we serve. Although KPL Gas Service is a large company, we are still a home-town utility company and we are concerned about our customers and about the towns we serve.

When you consider the KCC staff's mandate to represent the public, the lack of rate cases being filed, stable or declining rates and customer service standards which are strongly regulated by the KCC, we believe you must ask yourselves whether a separate CURB -- an additional state agency -- is truly needed. If your answer to that question is affirmative, we believe you should insure that it does not become an ever-growing state bureaucracy that unnecessarily duplicates the work of the KCC. As you are aware, the normal progression of state agencies over the years is for bigger staffs and bigger budgets, and this has happened with CURBs or CUBs in other states. Then each of the utilities end up hiring additional staff people just to handle the data requests of the CURB, and this goes on and on in an ever increasing growth cycle. Of course, the person who ultimately pays the costs is the customer or the taxpayer; the person everyone is trying to protect in the first place.

We suggest the Legislature should build into the law the

same checks and balances it has for other state agencies. Like any other state agency, we believe the CURB should have specific budget authority from the Legislature and should submit its proposed budget and staffing levels to the Legislature each year for hearings and legislative approval. It should be subject to the same sunset provisions that the Legislature puts on all other state agencies, including the KCC. It should be subject to post-audit reviews whenever the Legislature deems appropriate.

Thank you. I'll be glad to try to answer any questions you have.

Mr. Chairman and members of the Committee:

I am Treva Potter representing PEOPLES NATURAL GAS. I am here today to speak in opposition to Senate Bills 105 and 123, not because of the contents of these bills, because they closely resemble the present form of CURB, but because we are opposed to the concept of a statutory CURB. We are certainly not opposed to consumers being represented, but we believe they are more than adequately represented by the KCC staff and the attorney general's office, as well as the recently established CURB. The KCC staff and the commissioners have always done an excellent job in this capacity and while it is true that the commissioners are charged with weighing all the facts in a rate case, the staff is charged by law to represent the interests of the public. The CURB as presently established has only been effectively operating for four months and we do not believe this is a long enough period to determine its true worth.

One of the arguments given in favor of legislatively establishing the CURB is that 40 other states have done so. But, not all of these 40 are by statute. Some are administered through corporation commissions, public utility boards and attorney general offices. Another important point to remember is that almost all of these were established throughout the 1970's and in the early part of the 1980's. This was a time when product was high because of the oil embargo and inflation and many

ATT. 9
T&U
2/8/89

rate cases were being filed. This is not the case today. Very few rate cases have been filed in Kansas in recent years and Kansas enjoys rates in most areas of the state that are far below the national average. We suggest that this is a concept that has passed its time and which duplicates, and in some cases competes, with the protection the KCC provides the consumer.

Another argument given for legislatively establishing the CURB is that the present one was created by the executive order of Chairman Henley. Barring his untimely demise, we can assume he will be on hand for at least a few more years. And, if he should leave or change his position on the CURB perhaps that would be a better time to consider this type legislation. One of the primary reasons for not "setting in cement" a CURB is that once established they tend to become political -- often playing active roles in elections. As the case in Wisconsin, where legislators were labelled Saints or Sellouts, depending on whether they accepted utility employee PAC contributions and whether they voted for or against legislation that the Wisconsin CUB had labelled pro-consumer. Admittedly, this is a "horror story" that is not true of all consumer groups, but the potential for such abuse is certainly there. Why create a bureaucracy that once established will not be easily abolished whether there is a need for it or not. And, like all bureaucracies, will grow and grow -- \$80,000

last year for a few months, \$250,000 for this year.
What will it be next year and the next and the next?

Again, we want to emphasize that we are not against the consumer being represented. We believe they are already represented by the KCC and that CURB duplicates, at more cost to the consumer, what the KCC already does. And, in this time of rate stability, this does not seem to be justified. Kansas already has a CURB. Why not see how well it functions in its present form before "setting it in cement."

Presented to the Senate Transportation and Utilities
Committee on 2/8/89



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202 • (316) 263-7297

February 8, 1989

TO: Senate Transportation & Utilities Committee

**RE: SB 105 & SB 123 - Citizens'
Utility Ratepayer Board**

We are on the opponent side of the hearings on SB 105 and SB 123 because we want to express our opinion on these bills and to suggest a clarifying amendment.

Our industry has been regulated by the State of Kansas since 1899 - some 90 years. The State Corporation Commission has a large staff and a \$4 million budget to regulate our industry on a day to day basis.

These bills would create a "citizens' utility ratepayer board", but in Sec. 2 it would grant powers that go much further than intervening in and monitoring citizens' utility rates. We call your attention to Section 2 (a) beginning on line 49, (b) beginning on line 51, and (c) beginning on line 53.

If you are serious about this type of legislation, we would urge you to amend line 48 by adding after the colon the words "but limited to citizens' utility rates;"

The KCC has a budget of \$16 million and the Utilities Division budget is a little over \$2 million. The KCC has many other duties and obligations. They include the Mineral Division, the Transportation Division, the Conservation Division, and the Research and Energy Analysis Division.

If you intend to create this new state entity, we would urge you to limit the "Citizens' Utility Rate Payers Board" and its consumer counsel to citizen utility rate issues. Section 2 (b) and (c) would grant this Board extraordinary authority to intervene and initiate actions before the KCC in matters not related to consumer ratepayers. Therefore, we urge you to clarify this authority with amendments that limit its authority.

Donald P. Schnacke

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ATT. 10
T&U
2/8/89



KANSAS TELECOMMUNICATIONS ASSOCIATION

Testimony before the
Senate Committee on
Transportation and Utilities

SB 105 & SB 123

February 8, 1989

Mr. Chairman, members of the Committee, I am Rob Hodges, Executive Vice President of the Kansas Telecommunications Association. Our membership is made up of 32 telephone operating companies and other firms and individuals who provide service to and support for the telecommunications industry.

The KTA appears today to question the necessity of enacting SB 105 or SB 123, insofar as the bills would make changes in the Citizens' Utility Ratepayer Board (CURB) before experience with the existing structure has had an opportunity to demonstrate whether change is needed.

One technical point which our members raised in discussing the bills concerns the number of proposed members for the CURB. Because the state may lose one of its Congressional districts, it is suggested by KTA that language regarding the size of the CURB not specify a number of members, but rather direct the Governor to appoint a representative of each Congressional district to serve a four-year term.

To reiterate, it is the position of our association that the CURB should be allowed more time to operate in its present form before a decision on organizational change is considered. If the Kansas Corporation Commission no longer effectively represents utility customers, creation of a new, free-standing agency may be examined as an alternative.

Thank you for this opportunity to present KTA's position on these two bills.

ATT. 11
T&U
2/8/89