

Approved 2/15/89
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

9:30 a.m./p.m. on February 13, 1989 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:

Mike Woolf, Common Cause
Margaret Post Ahrens, Kansas Chapter, Sierra Club
George Dugger, Department of Aging
Dr. Stacy Ollar, Jr., Vice-Chairman, CURB
Herman R. Simon, Quaker Oats Company, Topeka

Continued hearing on S.B. 105 and S.B. 123 - Citizens' Utility Rate Board. (CURB)

The Chairman said the purpose of this meeting was to hear from conferees who did not have the opportunity to testify at the meeting of February 8th because of lack of time. He said he had also received a reply from Ed Bruske, President, KCCI, dated February 9, 1989 in regard to the survey from members pertaining to CURB. A copy of this letter is attached. (Attachment 1).

Mike Woolf, Common Cause, said this bill making CURB statutory is a step in the right direction and they support the bills. A copy of his statement is attached. (Attachment 2).

Margaret Post Ahrens, Kansas Chapter, Sierra Club, said they support these bills and felt the Board should also be involved in safety measures as well as utility rates. She said she had been involved in Minnesota in 1978 and 1979 during the farmers' revolt of high voltage transmission utility lines. Safety should also be a part of these bills. A copy of her statement is attached. (Attachment 3).

George Dugger, Department of Aging, expressed support for both bills and had some suggested amendments. A copy of his statement and proposed amendments is attached. (Attachment 4).

Mark Intermill, Kansas Coalition on Aging, had been to the previous hearing but could not attend today so his testimony was submitted in support of CURB. A copy is attached. (Attachment 5).

Dr. Stacy Ollar, Jr., Vice-Chairman of CURB, said he has been actively involved for 9 years in organizing local ratepayers to speak up and appear at public hearings of KCC. He spoke of the need for CURB to be statutory. A copy of his statement is attached. (Attachment 6).

Herman R. Simon, Quaker Oats Company, said he was appearing here with Norman Marsh, FMC Corporation, Lawrence; Mike Remondino, Rockwell International, Atchison; and Charles Bledsoe, Lonestar Industries, Bonner

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:30 a.m./~~p.m.~~ on February 13, 1989

Springs to oppose S.B. 105 and S.B. 123. He was speaking for a number of large industrial companies concerned about the cost of utility service for their Kansas operations. He said this legislation would favor one group of ratepayers at the expense of others. He said industries are already subsidizing other ratepayer groups by approximately \$6.5 million per year. A copy of his statement is attached. (Attachment 7).

On a motion from Sen. Francisco and a second from Sen. Hayden the Minutes of February 8 and 9, 1989 were approved.

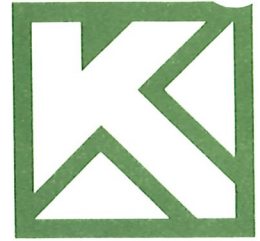
Meeting was adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: SENATE TRANSPORTATION & UTILITIES COMM.

DATE: 2-13-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Norman L Marsh	9 th & Maple St. Lawrence KS	FMC Corp.
Herman R. Simon	2200 Brickyard	The Quaker Oats Co.
Michael L. Remondino	4th + Park Atchison	Rockwell Int'l
Charles L. Bledsoe	6324 Charlotte Shawnee	Loanstar Ind.
Ed DeSoignie	TOPEKA	KS. CONTRACTORS ASSOC.
Dvo Grant	TOPEKA	KCCI
Margaret Ahrens	4400 SW 17th	Ks Chap. Sierra Club
George Digger	Rm. 1225 Docketing	Dpt. on Aging
Michael Woolf	Topeka	Common Cause Board of Public Utilities, KC.
Hugh Taylor	700 Minnesota	
Rob Holm	Topeka	KTW
TREVA POTTER	"	PEOPLES NAT GAS
JERRY COURSEY	"	KGIE
Tom Taylor	Topeka	KPL600 Service
Woody Woodman	KCMO	KCP&L
DR. STACY O'HAR JR	4826 County Line KCK	CURB
Bill Piquas	1503, 4 th Floor	CURB
Connie McGinness	Topeka	KS Electric Coops
Jeff Russell	TOPEKA	Univ. Tel. of Kansas
Jim Garkner	Topeka	Southwestern Bell
Rebecca Rice	Topeka	Amoco
Lowie Stroup Jr	McPherson	KMU
Mike Reecht	Topeka	AT+T
Frank Caro	Topeka	KCC
Tom Wilhelm	Lawrence	Gen. Liarsa



**Kansas
Chamber of
Commerce
and Industry**

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

February 9, 1988

The Honorable Bill Morris
Chairman, Senate Transportation Committee
State Capitol, Room 143-N
Topeka, KS 66612

Dear Senator Morris:

As a follow-up to my testimony yesterday concerning Senate Bills 105 and 123, I am enclosing 15 copies of the testimony. I'm sorry I didn't have the written testimony available for the committee hearing. Unfortunately, all of our printers were tied up because of our CAUCUS activities.

In regard to Senator Phil Martin's question concerning any polls taken by KCCI on the subject of CURB, I have researched our files and find that in September of 1987 we ran a survey of our membership (approximately 3300 at the time) which contained a number of questions. The questions ranged from a sales tax on services as adopted by the state of Florida, the initiative process, minimum wage, corporate takeover legislation, and a specific question concerning CURB. As a result of that survey, we received 473 responses. The overwhelming percentage of those responses believed that there was some need to have the Corporation Commission pay particular attention to utility rate increases as it related to small business. However, in regard to the question concerning the specific creation of a Consumer Utility Ratepayers Board by statute, 72% of the respondents objected to the newly created board. As a result of that poll, KCCI supported the creation of a consumer ratepayers board operating within the existing KCC structure, and agreed to the filling of an existing legal position to assist the board. We even encouraged the Kansas Corporation Commission to place more emphasis on small business as it related to utility rates. But, under no condition did we approve of a separate group created by statute.

In closing, the following quotes were made by KCCI in September of 1987 following the results of our poll.

Bruske said one of the roles the Kansas Corporation Commission plays is consumer protection. CURB would duplicate consumer protection efforts. Taxpayers, he said, already underwrite an annual KCC operating budget of approximately \$14 million.

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Senator Bill Morris
February 9, 1989
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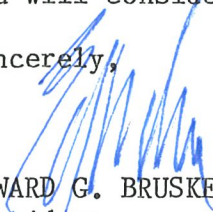
"The creation of CURB sets a precedent to create other boards that stifle competition and creativity and interfere with the private enterprise system," Bruske said. "These boards are costly duplications of existing state agencies and commissions created by statute."

Bruske said such "piggyback" boards send the wrong message to companies outside Kansas that are looking for new locations.

"Companies are going to expand in those states that offer the least amount of government interference and red tape," he said. "At a time when the Kansas economy is less than bright, business does not need frivolous duplication of government restrictions."

We appreciate the opportunity to appear before your committee and hope that you will consider our position.

Sincerely,



EDWARD G. BRUSKE
President

cc: Phil Martin



COMMON CAUSE / KANSAS
701 Jackson, Room B-6 • Topeka, Kansas 66603

February 8, 1989

Statement in support of Senate Bills 105 and 123
Presented to the Senate Committee on Transportation & Utilities
by Michael Woolf, Executive Director

As a member of the Coalition for a Residential Utility Consumers Office, Common Cause/Kansas rises in support of Senate Bills 105 and 123.

Common Cause advocates open and accountable government and supports proposals to increase public participation and representation in all levels of government including state agencies such as the KCC.

Common Cause/Kansas still believes that Kansas needs an independent and well funded Residential Utility Consumers Office, but we believe that this proposal, which makes the Citizens Utility Ratepayers Board statutory, is a step in the right direction.

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SIERRA CLUB

Kansas Chapter

Citizens' Utility Ratepayer Board

Testimony Before Senate Committee on Transportation and Utilities

January 7, 1989

Margaret Post Ahrens

I am Margaret Ahrens, lobbyist for the 2200 members of the Kansas Chapter of the Sierra Club. The Sierra Club has long-standing concerns for the conservation of our natural resources. Because of the close relationships between utility rate structures and conservation, our members have supported the institutionalization of a citizens' utility ratepayer board (CURB) in Kansas for the past several years. We believe that an independent CURB is the appropriate structure for evaluating rates and rate structures for the small energy user.

Senate Bills 105 and 123 set up the CURB structure we support. We recommend the following amendments as clarification of the Board's authority, funding and operations:

Specify the Board's right to appeal decisions of the Kansas Corporation Commission.

Specify the Board's right to hire support staff and consultants within the parameters of its budget.

Specify a mechanism for funding the CURB. We favor an assessment on utilities to be paid by those consumers served by the CURB over use of the State General Fund.

Specify that the budget of the CURB will be separated from that of the KCC. Separate budgets should not dictate separate support staff.

We applaud you for your continuing concern for the citizens and businesses in Kansas who deserve an independent voice in utility rate-making. We believe that that voice will conserve dollars and resources for Kansans in the future.

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DEPARTMENT ON AGING
Docking State Office Building, 122-S
915 S.W. Harrison
Topeka, Kansas 66612-1500
(913) 296-4986

Mike Hayden
Governor

Esther Valladolid Wolf
Secretary of Aging

TESTIMONY BEFORE THE SENATE TRANSPORTATION
AND UTILITIES COMMITTEE
ON SB 105 AND SB 123
FEBRUARY 8, 1989

The Kansas Department on Aging (KDOA) supports SB 105/123 as a way to improve the functioning of the Citizens' Utility Rate-payers Board. As a result of being established by statute, CURB will become eligible for membership in the National Association of State Utility Consumer Advocates (NASUCA). NASUCA membership will provide access to technical assistance not currently available and enable CURB to make better use of its limited resources.

Proposed Amendments

Amendment #1 - Support Staff

Passage of these bills will to some extent allay consumer concerns about the functional independence of CURB. Some additional clarifications in these bills would go further in assuring consumers of a truly independently functioning body. As currently written, these bills limit the CURB board to employing only one person, the consumer counsel. KDOA supports modifying Section 1 (e) to allow the board, subject to appropriations, to employ such supportive staff as necessary. The total reliance on the Kansas Corporation Commission for supportive staff places the CURB in an awkward position and contributes to the perception that CURB is not functionally independent.

Amendment #2 - Witnesses

KDOA also supports modification to these bills to specifically provide that the CURB may utilize consultants/expert witnesses and appeal KCC decisions to the state courts. These activities are critical to the effective functioning of the CURB and should be explicitly provided for in its authorizing legislation.

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Amendment #3 - Funding

The Committee may also wish to identify a funding mechanism for CURB in these bills. Because of the relatively small amount of money involved, we think it prudent to keep the funding mechanism simple and thus favor funding the CURB in the same manner that the KCC is funded - i.e. assessment upon the utilities which include this expense in their rate base.

Amendment #4 - Budget Process

The Committee may also wish to address CURB's budget process in this bill. This year the KCC established CURB's A and B level budget allocations. To keep the CURB independent in fact and in appearance, we would recommend that the Budget Division set CURB's A and B level allocation.

Conclusion

In conclusion, KDOA supports a strong, functionally independent CURB. SB 105/123, with the modifications we have suggested, go a long way towards this goal, and we urge their favorable consideration by this Committee.

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Testimony on SB 105
Senate Transportation and Utilities Committee
February 8, 1989
Presented by Mark Intermill
For the Kansas Coalition on Aging

My name is Mark Intermill. I am the Director of the Kansas Coalition on Aging. I appreciate the opportunity to appear before the committee this morning. On behalf of KCOA, I want to express our support of this effort to statutorily establish the Citizens' Utility Ratepayers Board.

Utility costs represent a significant portion of the budgets of many older Kansans. While retirement income is generally less than pre-retirement income, utility rates do not differentiate between workers and retirees. In discussing this bill with an older woman who has a part-time minimum wage job, I learned that her monthly level-payment gas and electric bill is greater than the bi-weekly paycheck she receives from her employer. Ratepayers, especially those of limited means, need an advocate to represent their interests in the rate-setting process.

Despite a low budget and small staff, CURB has effectively represented the interests of residential ratepayers in utility rate cases. CURB's efforts in one rate case resulted in a savings of \$.50 per month for ratepayers who receive electric service from Kansas Power & Light. In addition to their actions in rate cases, CURB represents ratepayers who file formal complaints against utility companies with the KCC. For the individual who believes that he or she has been overcharged, the availability of an advocate who understands the system is invaluable.

Passage of this legislation will provide The Citizens' Utility Ratepayers Board with statutory recognition which will enhance its independence. We believe that this independence will allow CURB to more effectively advocate in the interests of residential utility ratepayers. It will also allow CURB to gain access to the national network of similar agencies. Information gained from this network will enhance CURB's ability to perform its role of representing the interests of residential utility consumers. Most importantly, this legislation will help to assure the continued existence of CURB and provide the foundation upon which to build an adequately-staffed organization which will represent the interests of consumers in the utility rate-making process. We urge the committee to support this legislation.

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My name is Dr. Stacy Ollar Jr. I live at 5421 Queal Drive, Shawnee, Kansas, 66203. I am the Pastor of the Bristol Hill United Methodist Church, 4826 County Line Road, Kansas City, Kansas, and I am currently serving as Vice-Chairperson of the Citizens' Utility Ratepayers Board. Prior to being appointed to this Board, I have invested about 9 years organizing local ratepayers to speak up and to appear at Public Hearings and to apprise the Kansas Corporation Commissioners of their concerns about the rising cost of utility rates. The creation of CURB is an answer to the dreams, hopes and concerns of many persons that the State of Kansas might have a legitimate state agency to apprise the ratepaying public of their rights and opportunities to speak up and how to go about contacting the appropriate persons for help.

I would like to submit the following areas of NEED for CURB in the State of Kansas.

- 1.) Currently, the responsibility of the KCC Staff is to balance the public interest and the interest of the utility before the Commissioners.

The CONCERN and the NEED: who is to represent the residential, small business and small commercial ratepayers before the Commission in a rate case? CURB is not designed to shift the burden of payment to any one class of customers within a utility. In the rate case, CURB can influence the outcome of the revenue requirement and the rate design, thus in effect assisting all classes of customers to have the lowest possible rates.

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One of the goals of our State, is to have economic development, to attract new industries and to create new jobs. The cost of utilities is a big factor, whether or not a company locates in the State of Kansas or expands their current operation. CURB seeks to bring about the lowest possible rates for all classes of customer and thereby create an attractive environment for residential growth, as well as commercial and industrial growth. Last week, at the Hearing before Utility and Transportation Committee, the CEO of KCCI testified in opposition of CURB being made statutory based on a survey they had done of local Chambers of Commerce. I want to state that I have served on the Board of Directors of the second largest Chamber of Commerce in the State of Kansas, the KCK Area Chamber of Commerce, twice I have served on the Executive Committee and in 1986, I served as the Chairperson of the Governmental Affairs Council. I currently serve on the Governmental Affairs Council of the KCK Area Chamber of Commerce and I know exactly how those surveys are done. They are most general in nature and in 1988, there was no item of this nature before the Governmental Affairs Council for consideration.

2.) The second need for CURB is found in the issue of representing the residential and commercial ratepayer's interest before the Commissioners in a rate case. Currently the general public is frustrated because as ratepayers through our monthly utility bills, we pay the cost incurred by the utility seeking a rate increase before the KCC. Each utility seeking a rate increase before the KCC must pay the cost of that rate case. A rate case runs in the thousands of dollars and in turn, the utility passes that cost along to the ratepayer

6-2

Thus in essence, I am paying my utility company's cost in seeking their rate increase, but who is representing my interest before the Commission? Without CURB, no one!

If you are concerned, really concerned about the plight of the ratepayer, then please support CURB for statutory existence.

Funding: The question has been raised about funding for CURB.

The most appropriate way to fund CURB is for the legislative branch of government to maintain control over our Budget, as you do for all other state agencies, and to set the appropriate percentage for the necessary assessment to be collected by the utility and forwarded to the state treasurer.

We need to rehash once again that the Kansas Corporation Commission is currently funded by an assessment based on each utility's Gross Revenue for support of the General Budget of the KCC and in addition the utility seeking a rate increase pays the KCC the entire cost of that rate case. These are the 2 primary sources of income for the KCC.

The real issue before this Committee relative to the bills under consideration is who will represent the consumer; the one who pays the bill. I know that receive numerous telephone calls from my district from ratepayers who are having problems and they want to know what they can do and where they can go for help with their utility problem. I would like to continue to say to people that because of wisdom of the state legislatures, the State of Kansas, has a CURB board who will seek to help you with your concern.

We ask you to vote yest for SB 105 and 123.

Thank you for allowing me this opportunity to speak before you today.

TESTIMONY TO BE PRESENTED TO
SENATE TRANSPORTATION AND UTILITY COMMITTEE
ON MONDAY, FEBRUARY 13, 1989 AT 9 A.M.

Chairman Morris, committee members, my name is Herman R. Simon. I am the Plant Manager of the Quaker Oats Company pet foods plant here in Topeka. I am speaking today on behalf of myself, The Quaker Oats Company and the Kansas Industrial Consumers, of which my company is a member. The Kansas Industrial Consumers is comprised of a group of large industrial customers concerned about utility costs in their manufacturing operations.

I am here today to express opposition to Senate Bills 105 and 123, Acts establishing the citizens' utility ratepayer board. The proposed legislation is opposed on the basis it is not in the best interests of either the ratepayers or taxpayers. To favor one group of ratepayers at the expense of others and use the taxpayers money to do this is patently unfair, unjust, discriminatory, and perhaps even unconstitutional.

Utility rate cases involve two questions. The first is how much of a rate increase to grant a utility, the second is to determine how the increase is allocated through ratepayer groups. The proposed legislation will require CURB to represent only residential and small commercial ratepayers. By the very nature of the classes they represent, they will oppose industries seeking fair share allocation.

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Kansas is encouraging industrial development in many ways. These bills are counter productive in this regard because they clearly favor other ratepayer classes. The point being, as industrial utility rates escalate, Kansas companies lose their competitive edge to companies operating in other states as well as to plants within their own company.

The Kansas Industrial Consumers recently met with Governor Hayden regarding industry having cost-based rates to remain competitive and viable in today's highly competitive environment. We submit that these bills run counter to the Governor's desire, and desire on many legislatures I might add, to encourage economic development in the state of Kansas.

Residential ratepayers are not being discriminated against in Kansas. Kansas already has some of the lowest residential rates in the country. For example, the residential rates of Kansas Power & Light Company of Topeka rank 145th lowest of 214 utilities throughout the country.

Industries served by Kansas Power & Light Company are already subsidizing other ratepayer groups by approximately \$6.5 million per year, based upon cost studies prepared by that utility and filed or presented in gas and electric rate case proceedings before the Kansas Corporation Commission. The passage of these CURB bills inevitably can only lead to increases in the subsidies.

I would like to add a personal footnote to the aforementioned rationale for opposition to the proposed legislation. As a taxpayer I believe it is fundamentally wrong to have a statute authorization state funds for what is basically a lobbying effort for a select group. I view it as discriminatory

and even question whether it would stand up if challenged from a legal standpoint.

We ask that you vote no on these bills.

This concludes my testimony. I would like to thank the committee for the opportunity to express our viewpoint.

KANSAS INDUSTRIAL CONSUMERS

The Kansas Industrial Consumers ("KIC") is a group of large industrial companies concerned about the cost of utility service for their respective Kansas operations.

This group consists of the following companies:

FMC Corporation
General Motors Corporation
The Goodyear Tire & Rubber Company
Lone Star Industries, Inc.
The Quaker Oats Company
Rockwell International

These companies are engaged in a variety of industrial activities. In the aggregate, they employ approximately 7,800 persons in Kansas, with a direct payroll in excess of \$313 million. They also purchase over \$80 million worth of goods and services in Kansas each year and they pay over \$9 million each year in Kansas state and local taxes. Without question, they represent a substantial part of the economic base of the state of Kansas.

These industrial companies are large-user gas and electric customers of Kansas Power & Light Company. As such, they contribute materially to the payment of the fixed costs of this utility. These companies have participated in the gas and electric rate cases of this utility for many years in support of the adoption of cost-based utility rates. They firmly believe that cost-based rates are important to preserve the Kansas industrial base and for future industrial growth.