

Approved February 18, 1991  
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Lana Oleen at  
Chairperson

1:40 ~~XXX~~/p.m. on February 12, 1991 in room 531-N of the Capitol.

All members were present except: Senators Oleen, Doyen, Francisco, Kanan, Strick and Vidricksen.

Committee staff present:

Julian Efird, Kansas Legislative Research Department  
Fred Carman, Revisor of Statutes Office  
Mary Allen, Committee Secretary

Conferees appearing before the committee:

William Riggins, Citizens' Utility Ratepayers Board  
Beth Runnelbaum, Citizens' Utility Ratepayers Board  
Donna Kidd, Citizens' Utility Ratepayers Board  
Dr. Stacy Ollar, Jr., Citizens' Utility Ratepayers Board

The meeting of the Senate Committee on Governmental Organization was called to order at 1:40 p.m. by the Chairman, Senator Lana Oleen.

William Riggins, Consumer Counsel for the State of Kansas, appeared before the Committee to present an overview of the Citizens' Utility Ratepayers Board (CURB) which Board he represents in public utility matters. Mr. Riggins began his presentation with a brief history of CURB, created in 1988, by Kansas Corporation Commission (KCC) Chairman, Keith Henley, as a part of the KCC. He noted that in 1989, the Legislature established CURB as a matter of state statutory law to act as a utility consumer advocate. He observed that the CURB Board is composed of five consumer advocates, one from each congressional district, who are appointed by the Governor for staggered four-year terms. Mr. Riggins introduced two of these Board members, Dr. Stacy Ollar, Jr., the current Chairperson, from Kansas City, Kansas, and Donna Kidd, from Topeka. In addition, he introduced Beth Runnebaum, volunteer services coordinator for CURB.

Mr. Riggins discussed the utility rate-setting process and noted that it is a technical, legalistic process with rates being set on the basis of evidence introduced in formal hearings before the KCC. He noted that the utilities and their large customers have lawyers and expert witnesses to advocate for their interests; however, the residential and small business customers, who constitute the great majority of the utilities' customers, are unrepresented and unprotected. CURB, he said, fills this gap in the process by representing these residential and small business customers. He pointed out that the KCC staff does not act as an advocate for any one for its job is to assist the KCC in its legal duty of balancing the interests of the utility company and the company's customers. (See Attachment 1 for Mr. Riggins' testimony.)

Mr. Riggins provided the Committee with a list of CURB's accomplishments for FY89 (Attachment 2) and for FY90 (Attachment 3) and observed that CURB takes credit only for KCC-adopted adjustments in which CURB was the only advocate on behalf of the adjustment. In discussing CURB's budget, he noted that although it is set by the Legislature, it is not funded by tax dollars or by the General Fund. Instead, it is assessed back against the utility companies and, in turn, collected through rates from only these consumers CURB represents. He said that the Governor's budget recommendation for CURB for FY92 is approximately \$341,000.00 and he noted that the increase from FY91 is attributable to the salary and fringe benefits associated with an additional attorney on the staff. He further noted that because CURB does not have a technical staff it uses a yearly consultant fund of \$150,000.00, which is included in the budget, to hire expert witnesses on a case by case basis.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,  
room 531-N, Statehouse, at 1:40 ~~am~~/p.m. on February 12, 1991

In closing, Mr. Riggins stated that the 1989 legislation establishing CURB was enacted with a two year repealer; therefore, CURB is requesting the Legislature for reauthorization this year.

Mr. Riggins and members of the CURB Board answered questions from Committee members including the role and duties of CURB as they relate to the role and duties of the KCC staff, the procedures used by CURB in selecting consultants, the types of cases in which CURB intervenes, the work of CURB's Board, CURB's rent arrangements with the KCC and the position of CURB on the pending KPL/KG&E merger case.

Senator Strick moved that the minutes of the Committee of February 4, 1991, and February 5, 1991, be approved. Senator Francisco seconded the motion. The motion carried.

The meeting was adjourned at 2:25 p.m. by Chairman Oleen.

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE 2-12-91

| NAME                | COMPANY / ORGANIZATION | ADDRESS                     |
|---------------------|------------------------|-----------------------------|
| Beth Runnelbaum     | CURB                   | 1500 SW Arrowhead           |
| Wanna J. Kidd       | Curb                   | 1195 Buchanan, Topeka       |
| Dr. STACY O'NEAL JR | CORP                   | 5421 Quail, Shawnee         |
| Bill Piggus         | "                      | 1500 S.W. Arrowhead, Topeka |

**TESTIMONY OF WILLIAM G. RIGGINS  
BEFORE THE  
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**

**February 12, 1991**

Good afternoon. I'm Bill Riggins, Consumer Counsel for the State of Kansas. I represent the Citizens' Utility Ratepayers Board (CURB) in public utility matters. I appreciate the opportunity to provide you with an overview of CURB. As will become obvious during my remarks, I am very proud of CURB and what we have accomplished, and I am optimistic about the future.

First, some history. For a number of years, attempts were made in the Legislature to establish a utility consumer advocate. Those attempts were unsuccessful. After his election, Governor Mike Hayden established a task force to recommend a method for increasing small consumer representation in the regulatory process. That task force disbanded after being unable to reach a consensus. In January, 1988, KCC Chairperson Keith Henley carved out a piece of the KCC budget and announced the creation of CURB. He appointed the initial CURB members in April of 1988. I was hired as the state's first consumer counsel in August of 1988.

Being a creation of the KCC, and existing at its pleasure, created some problems. It meant we didn't have all the legal tools we needed to do our job. The National Association of State Utility Consumer Advocates refused us membership on that basis. Recognizing those problems, the 1989 Legislature "re-created" CURB as a matter of state statutory law. I'm appreciative of the fact that the CURB bill received almost complete support in the Senate. Statutory existence didn't cost extra money, it simply provided us

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*Attachment 1*

with necessary autonomy from the Commission. Following the enactment of the CURB bill, Governor Hayden reappointed all the original CURB members to new "statutory" terms.

That's how Kansas became the 38th state to establish by law a utility consumer advocate. CURB itself is composed of five consumer advocates, one from each congressional district, who are appointed by the Governor for staggered four-year terms. CURB members are volunteers and are not paid for their service on the board. Our current chairperson is Dr. Stacy Ollar, Jr., the pastor of the Bristol Hill United Methodist Church in Kansas City, Kansas. Our vice-chairperson is Randal Loder, who farms near Garden City. The other members are Donna Kidd, the director of the Jayhawk Area Agency on Aging in Topeka; Linda Weir-Enegren, who owns and operates a small manufacturing business in Wichita; and Dr. J. Lloyd Spaulding, an emeritus professor of economics from Bethel College in Newton. CURB directs the activities of the Office of Consumer Counsel which consists of myself; Beth Runnebaum, our volunteer services coordinator; and Robin Crider, our secretary.

To understand why the great majority of states have recognized the need for an advocate for small utility consumers, one must understand how the regulatory process works. Rate-setting is a technical, legalistic process. Rates are set on the basis of evidence that is introduced in formal hearings with the commissioners sitting as judges. The decisions of the commissioners can be and frequently are appealed to the courts.

In this rate-setting process, the utility's lawyers and expert witnesses act as an advocate for the company's interests. The utility's large customers usually hire lawyers and witnesses to advocate for their interests. The KCC staff does not act as an advocate for anyone. It's job, instead, is to assist the KCC in its legal duty of balancing the interests of the company and all the company's customers. This leaves a gap in the process. The residential and small business customers, who make up the great majority of the utility's customers, are unrepresented. If they are unrepresented, they are unprotected. That's why, as far back as 65 years ago, states began to fill this gap by creating offices like CURB. This also illustrates the legal inaccuracy of the time-worn argument that CURB simply duplicates what the KCC already does.

The "duplication" argument also is inaccurate from a practical viewpoint. To confirm that, one needs look no further than the savings we have accomplished for Kansas ratepayers. These savings are estimated very conservatively, and I can provide supporting documentation and calculations for them all. We take credit only for KCC-adopted adjustments that only CURB advocated. We do **not** take credit for KCC-adopted adjustments that were advocated by other parties besides CURB. With those qualifications in mind, in our first year of operation, in which we were not fully staffed throughout the year and in which we did not have statutory authority, we saved ratepayers about \$4.5 million. We spent about \$117,000 that first year. That works out to more than \$38 in

benefits to ratepayers for each dollar spent. In our second year, we saved ratepayers almost \$14 million. We spent about \$234,000. That's a cost-benefit ratio of more than \$59 in savings for each dollar spent. In light of these results, another time-worn argument, that CURB is simply more bureaucracy, is unimpressive. I am not aware of a more cost-effective governmental organization in this state.

Two other arguments made by opponents of the 1989 CURB bill are appropriately discussed here. First, it was argued that any money saved for small ratepayers would be collected from large ratepayers. In response to that argument I would point out that more than half of the savings referenced above benefitted all ratepayers regardless of size. Another argument made two years ago was that not many rate cases were being filed these days so there wouldn't be much for us to do. In our first year, we were involved, formally or informally, in 26 cases, issues, or requests for assistance. This past year, that number grew to 61. This year, 7 1/2 months into the fiscal year, that number already is up to 59. Again, I'm not aware of any three-person office in state government that handles a caseload such as this.

As a final matter, before I move on to another subject, I also should point out that CURB does not just become involved in major rate cases and generic investigations. We also represent individual consumers, at no cost to them, who are having problems with their utility companies. In addition, many of our accomplishments can't be measured in dollars and cents. For

example, we have improved consumer protections in areas such as security deposits and collection and disconnection practices. We got Union Gas to complete critical leak surveys in weeks instead of months. We convinced United Telephone to re-open a local bill payment center in Galena that the Company previously had closed.

That's a summary of who we are, what we do, and what we've accomplished for consumers during our first two years. The final area I will address before entertaining questions is our budget.

Although the Legislature sets our budget, we are not funded by tax dollars. We are not funded from the general fund. Our budget is assessed back against the utility companies and, in turn, collected through rates from the consumers we are representing. This is the same way the KCC is funded. It's the fairest way to fund our operations. For example, right now we are spending a great deal of time on the pending KPL/KG&E merger case. Because of the assessment mechanism, our expenses in this case will be paid by the ratepayers we are representing in this case as opposed to, for instance, Southwestern Bell ratepayers.

In FY90, our budget was about \$273,000. This year, FY91, our budget is currently set at about \$303,000. The increase is attributable to two factors: converting our half-time secretarial position to full-time, and; the increased rent in the new KCC building. The Governor's budget recommendation for FY 92, as set forth in H.B. 2049, is about \$341,000. The increase is almost entirely attributable to the salary and fringe benefits associated with an additional attorney position. Because of the cost-



effective nature of the office and its heavy caseload as described earlier, the CURB members consider this staff addition to be of critical importance.

One final note about our budget is that, in each year's budget, \$150,000 is designated for consultant fees. Rate making is a technical field that calls for expert witnesses such as accountants, economists, and engineers. We do not have a technical staff, so we use our consultant fund to hire expert witnesses on a case-by-case basis.

I will close by noting that the 1989 legislation establishing CURB was enacted with a two-year sunset. Therefore, we are asking the Legislature for reauthorization this year. A committee bill to that effect was introduced yesterday in the House Governmental Organization Committee.

I appreciate your courteous attention and will be happy to answer any questions you might have.

FY 89

CASES IN WHICH CURB HAS FORMALLY INTERVENED

1. KPL gas rate case
2. United rate case
3. Fine of Union Gas
4. Union Gas rate case
5. Decommissioning docket
6. Billing practices docket
7. Sunflower contract with Garden City
8. Formal complaint, Docket No. 161,654-U
9. KPL electric investigation
10. KGE Showcause action
11. KGE Ripley rate increase
12. KCPL showcause
13. Owens-Corning complaint
14. Fairmont Heights rate case
15. Southwestern Bell filing
16. ECA abandonment

ISSUES OR CASES THAT CURB HAS INVESTIGATED OR INFORMALLY PARTICIPATED IN

1. KGE supervised lender application
2. KGE church rate
3. Informal complaints (many)
4. KGE heat pump rate
5. KGE customer service charges
6. KGE/Vulcan contract
7. KGE essential use rate
8. KPL power outages
9. ATT filing
10. KPL/IBP contract

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Attachment 2

FY 89

ACCOMPLISHMENTS FOR CONSUMERS

- 1) Billing practices docket - 10 CURB recommendations were adopted, improving consumer protection in areas such as security deposits, level payment plans, directed payments, utility collection practices, and disconnection.
- 2) United rate case - adoption of CURB's adjustment to cash working capital saved all United ratepayers approximately \$115,000 per year.
- 3) KCPL - as a result of negotiations between CURB and KCPL, all of KCPL's ratepayers were saved approximately \$1 million over the next two years.
- 4) CURB represented a residential ratepayer who had an individual billing dispute with his utility and saved the customer \$93 at no cost to him.
- 5) KPL gas case - saved small customers \$280,000 a month in customer service charges (\$3.36 million a year) by preventing an increase in the charge.
- 6) As a result of negotiations with KPL, KPL instituted a conservation rate.
- 7) As a result of negotiations with KGE, KGE agreed to implement a time of day rate for churches and to drop its application to become a supervised lender (which would have allowed it to charge interest rates of up to 36 percent).
- 8) Union Gas showcase - adoption of CURB's recommendations resulted in Union being ordered to complete leak surveys within weeks instead of months.
- 9) CURB was instrumental in initiation of a showcase proceeding against and an audit of KGE.

10) On the basis of a CURB motion, a portion of a KGE rate increase was granted only on an interim basis and made subject to refund pending further hearings.

FY 89

COST/BENEFIT

CURB's first year expenditures - \$117,253

Amount CURB saved ratepayers in its first year - \$4,475,093

Each dollar spent to operate CURB produced \$38.17 in direct benefits to utility ratepayers.

CASES IN WHICH CURB WAS FORMALLY INVOLVED DURING FY 90

- 1) Wolf Creek Decommissioning
- 2) Union Gas rate case
- 3) Midwest Energy rate case
- 4) Southwestern Bell rate case
- 5) Energy Cost Adjustment Clause docket
- 6) KG&E rate case (Ripley 2) and the resulting appeal
- 7) AT&T rate case
- 8) KG&E/Boeing contract
- 9) Owens-Corning Fiberglas complaint
- 10) KG&E Ripley 1 appeal
- 11) Greeley Gas rate case
- 12) KPL deferred accounting docket
- 13) KPL explosion investigation
- 14) KCPL coal contract case
- 15) KG&E coal contract case
- 16) Complaint against United Telephone
- 17) KG&E pre-pay metering
- 18) Kansas Public Service rate case
- 19) Wolf Creek outage appeal
- 20) Access charge hearings
- 21) Investigation into operator services

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*Attachment 3*

CASES OR ISSUES IN WHICH CURB INFORMALLY PARTICIPATED DURING FY 90

- 1-17) Complaints by individuals that were resolved without filing a formal complaint
- 18) KPL-regulatory treatment of pipeline safety costs
- 19) KPL/IBP contract
- 20) Complaints concerning Fairmont Heights Water Company<sup>2</sup>
- 21) Complaints concerning Suburban Water Company
- 22) Wholesale gas pricing issues involving KPL, Williams Natural Gas and Amoco
- 23) Establishment of "church rate" by Centel
- 24-25) Complaints concerning Southwestern Bell
- 26) Complaints concerning K-N Energy
- 27) Complaints concerning United Telephone
- 28) Purchase of Union Gas
- 29) Take-or-pay issue
- 30) Complaints and proposed legislation concerning gas and electric utilities that sell and service appliances
- 31-32) Complaints concerning KPL
- 33) Complaints concerning Osage County Rural Water District
- 34) Proposed taxation legislation that could impact utility rates
- 35) Proposed legislation regarding propane prices
- 36) Inquiry regarding city's jurisdiction to establish maximum rates

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<sup>2</sup> "Complaints concerning" a given utility company means generic issues or complaints raised by groups or by numerous individuals, as opposed to an individual complaint involving an individual problem.

- 37) AT&T "slamming" petition filed with the FCC
- 38) Complaints concerning Utility Refund Services, Inc.
- 39) Complaint concerning Peoples Natural Gas
- 40) JBN Telephone Company rate case



## ACCOMPLISHMENTS FOR CONSUMERS

- 1) **KGE-Ripley rate case** adoption of CURB's adjustments resulted in an ordered rate reduction for all customers of \$8,640,908 per year. Adoption of another CURB adjustment resulted in an ordered reduction of residential customer service charges of another \$4,187,175 per year
- 2) **Union Gas rate case** saved residential and small commercial customers \$744,017 per year in customer service and commodity charges
- 3) **Midwest Energy rate case** saved residential and small commercial customers \$360,036 per year in customer service charges. In addition, Midwest agreed to offer a residential time-of-day rate
- 4) **KGE/Boeing contract** as a result of CURB's motion, a public comment period was established and a public hearing conducted regarding this contract. The comment period and hearing, in turn, resulted in a precedent-setting order which said that lost revenues caused by a utility's high rates will not necessarily be recovered from the utility's customers
- 5) **United Telephone complaint** assisted residents of Galena in convincing the Company to reopen a local bill payment center that the Company previously had closed
- 6) **AT&T rate case** AT&T agreed to provide financial information to the KCC and to CURB following a two-year period of relaxed regulation so that the reasonableness of its rates can be assessed
- 7) **Wolf Creek outage case** the KCC ordered its staff to commence an investigation into the possibility of adopting CURB's

proposed performance standards for  
Wolf Creek

8) **Southwestern Bell**  
**"TeleKansas" rate case**

as a result of a CURB motion,  
Southwestern Bell was ordered to  
submit proposed bill inserts  
regarding the case to the Commission  
staff for advance approval regarding  
accuracy and objectivity

**COST/BENEFIT**

CURB's expenditures during FY90 - \$234,483

Amount CURB saved ratepayers in FY90 - \$13,932,136

Each dollar spent to operate CURB produced \$59.42 in direct  
benefits to utility ratepayers