

Approved: 4/6/95
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES.

The meeting was called to order by Chairperson Ben Vidricksen at 1:30 p.m. on March 28, 1995 in Room 522S of the Capitol.

All members were present except:
Senator Lawrence
Senator Rock

Committee staff present: Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Martha Ozias, Committee Secretary

Conferees appearing before the committee:
Mike Lackey - Kansas Department of Transportation
Jan Kruh - AARP
Nicole Bryant - Citizens' Utility Ratepayer Board

Others attending: See attached list

SCR 5011 - OPPOSING THE CONVERSION FROM THE UNITED STATES CUSTOMARY MEASUREMENT SYSTEM TO THE METRIC SYSTEM

Mike Lackey addressed this bill which pertains to the requirements and conditions the federal Department of Transportation imposes on the Kansas Department of Transportation. He explained that a lot of work had already been done on designs and in computers and training of personnel in preparation for the metric system and that this would end up being a very expensive project if the government should rescind it. It was felt that the metric system would not be a problem with the public as it was easy to learn.

HB 2563 - ESTABLISHING A CITIZENS' UTILITY ADVOCACY PANEL

Jan Kruh spoke in support of this bill which would speak for the small ratepayer in utility cases. She felt an advocacy group was greatly needed to give the small ratepayers a voice in achieving fair and equitable treatment. (Attachment 1)

Testimony was also heard from Nicole Bryant in support of the Citizens' Utility Ratepayer Board to gauge the ultimate impact of utility company requests for rate increases on small business and residential ratepayers. It was felt that without the enactment of this bill there would be no way for the majority of Kansas ratepayers to receive cost-effective legal representation in complex, technical utility proceedings before the Kansas Corporation Commission and that there would be no one to appeal a decision on their behalf. She pointed out that the KCC legal staff could not appeal a decision because it would be a conflict of interest. (Attachment 2)

Testimony was distributed but not read from Representative Laura McClure and Sue Johnson Giles, CURB. (Attachments 3 & 4)

No action was taken on these bills.

The Chairman adjourned the meeting.

Senate Committee on Transportation & Utilities

Statement on HB2563

Jan Kruh, Utility Issues Team Leader
Kansas State Legislative Committee
American Association of Retired Persons

March 28, 1995

My name is Jan Kruh, and I am the team leader for utility issues on the Kansas AARP State Legislative Committee.

Thank you for the opportunity to testify on House Bill 2563, which creates the Citizens' Utility Advocacy Panel (CUAP) to represent residential and small commercial and agricultural ratepayers in Kansas.

AARP strongly supports the continued existence of a consumer advocacy agency which will speak for the small ratepayer in utility cases. This group of ratepayers has no other legal representation to match the permanent attorney staffs of the utilities when rate increases are brought before the Kansas Corporation Commission. It is the role of the KCC to make judgements on rate cases based on the presentations made from each of the parties. Without an advocacy group such as CUAP, small ratepayers would have no voice in achieving fair and equitable treatment.

Our organization has reviewed HB2563 and find it a satisfactory replacement for the current advocacy agency known as CURB, the Citizens Utility Ratepayer Board. It can establish a governing body which will work to assure that fair utility rates are assessed the residential and small commercial and agricultural ratepayers. This group represents the vast majority of the ratepayers in our state; their voice needs to be heard.

The members of the House have voted for CUAP in HB 2563 with a substantial majority of 91 to 33. We urge that this committee provide a strong supportive recommendation to the Senate to pass this legislation.

Thank you.

SENATE TRANSPORTATION
DATE: 3/28/95
ATTACHMENT: 1

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Testimony in Support of

House Bill 2563

Nicole Bryant

Attorney for the Citizens' Utility Ratepayer Board

March 28, 1995

Good afternoon, Mr. Chairman and members of the Committee. I am Nicole Bryant, attorney for the Citizens' Utility Ratepayer Board (CURB). I am testifying today in support of House Bill 2563, which would replace CURB with the Consumer Utility Advocacy Panel (CUAP). As you know, CUAP would intervene in pending utility cases before the Kansas Corporation Commission (KCC) to "speak on behalf" of residential and small commercial ratepayers as directed by K.S.A. 66-1223. One of the many purposes behind CUAP would be to gauge the ultimate impact of utility company requests for rate increases on small business and residential ratepayers.

It is critically important to note that Kansas is not the only state to recognize a need for a utility consumer advocate. Indeed, by establishing CURB, Kansas was the 38th state to establish a consumer advocate office. To understand why the great majority of states have recognized the need for an advocate for residential, agricultural and small commercial ratepayers, you must understand how technical and difficult ratemaking can be. The decisions of the Commissioners can be and frequently are appealed to the courts.

That is why I am here today -- CURB is concerned that if House Bill 2563 is not enacted, there would be no way for the majority of Kansas ratepayers to receive cost-effective legal representation in complex, technical utility proceedings before the KCC. More importantly, there would be absolutely nobody to appeal a KCC decision on behalf of the residential, agricultural and small commercial ratepayers. . . . Unless those ratepayers were able to hire a private attorney to represent them, which can be difficult to do because utility lawyers are few in number and their

legal fees can be cost prohibitive to the average ratepayer.

Many have argued that a consumer utility advocate is just a duplication of the KCC. However, that argument is incorrect because, as I stated previously, without a consumer utility advocate, there would be nobody to appeal a KCC decision. The KCC legal staff CANNOT do it because it would be a conflict of interest for the KCC legal staff to appeal a Commission decision because once a decision is handed down, the legal staff's role changes from that of advisor/consultant to that of defender (whether Staff agrees with that decision or not). Obviously, the KCC's legal staff cannot defend a Commission decision and at the same time appeal it. Hence, the need for CURB/CUAP and the passage of House Bill 2563.

Although House Bill 2563 would replace the current CURB Board with a new CUAP Board and it would take away our ability to initiate actions, I am here today on behalf of the residential, agricultural and small commercial ratepayers of Kansas to ask your support of House Bill 2563 because it is those ratepayers who will be most affected by the passage or nonpassage of House Bill 2563. This Bill would enable Kansas ratepayers to retain the protection they deserve and have a right to. After all, a reorganized advocate on their behalf is better than no advocate at all. That is why I am here today asking that you say yes to House Bill 2563.

Thank you for your attention and support.

STATE OF KANSAS

LAURA L. McCLURE
202 SOUTH 4TH
OSBORNE, KS 67473
(913) 346-2715



TOPEKA

HOUSE OF
REPRESENTATIVES

REPRESENTATIVE, 119TH DISTRICT
STATE CAPITOL
ROOM 278-W
TOPEKA, KS 66612-1504
(913) 296-7680
1-800-432-3924

HB 2563

Concerning the creation of the Citizens Utility Advocacy Panel (CUAP) pronounced CAP, the u is silent.

HB 2563 establishes a five member advocacy board, appointed by the Governor. One from each congressional district and one at large, with not more than three members from the same political party.

The chairperson of the board is designated by the Governor.

CUAP can represent and intervene for residential, agricultural and small commercial ratepayers before the KCC.

CUAP can not initiate a case.

CUAP can appeal any order or decision of the KCC for residential, agricultural and small commercial ratepayers.

CUAP will be funded through assessments on jurisdictional utilities. Assessments are only made for actual expenditures, if actual expenditures are less than what was approved by the appropriations committee, then ratepayers are only assessed for the actual expenses incurred by CUAP.

The Senate Ways and Means Committee has appropriated \$319,299 for the Special Revenue Fund for CUAP. This is \$130,000 below the Governor's budget recommendations.

This would be less than 38 cents per household per year.

The Senate Ways and Means Committee reduced CUAP's staff from 3 FTE's to 2, one Consumer Counsel and one Office Specialist. They then authorized one FTE as a special projects position.

There are 38 other states that have utility advoca

SENATE TRANSPORTATION
DATE: 3/28/95
ATTACHMENT: 3

If CUAP is abolished:

Residential, agricultural and small commercial ratepayers will have to hire a private attorney to represent them in a rate case before the KCC. These attorneys are hard to find and very expensive. The fees could not be included in the rate base.

Staff for the KCC can't appeal an order or decision made by the KCC. If CUAP is abolished, residential, agricultural and small commercial ratepayers will have to hire a private attorney to appeal any order or decision made by the KCC. Again, this would cost these ratepayers.

Currently expenses incurred by the utilities in a rate case for expert witnesses and outside attorneys are passed through to the ratepayers in the rate base.

The KCC is not an advocate on behalf of any particular interest group, it must consider the interests of the utility companies, large ratepayers and the small ratepayers. An excellent analogy was used in committee, "If you were going through a divorce, would you want your attorney to also be representing your spouse?"

If CUAP is abolished it will be the residential, agricultural and small commercial ratepayers who will suffer. They would lose their voice in the complex technical utility proceedings before the KCC.

I support HB 2563.

A handwritten signature in blue ink, appearing to read "Paula M. Cline".

TESTIMONY BEFORE THE SENATE
TRANSPORTATION AND UTILITIES COMMITTEE

IN FAVOR OF HOUSE BILL 2563

THE CITIZENS' UTILITY RATEPAYERS BOARD (CURB)

Sue Johnson Giles, Chairperson

March 28, 1995

Good afternoon, Mr. Chairman, and members of the Committee. Thank you for this opportunity to appear before you in favor of House Bill 2563, a bill that creates the Citizens' Advocacy Panel. I am Sue Johnson Giles, the CURB Chairperson, and a residential utility consumer from Pittsburg.

The Kansas ratepayers' work, health and life depend on the services supplied by utilities, as do mine. By virtue of this fact, we have the right:

- To receive adequate utility services;
- To pay no more than a reasonable price for the utility service we use;
- To not have our utility services arbitrarily terminated;
- To have qualified representation in all proceedings affecting our supply and cost of utility services;
- To receive all existing information concerning the supply and cost of utility services;
- To question improper management of public utilities;

- To demand conservation of utility resources; to participate in making decisions affecting future utility resources for ourself and our children;
- To have our wishes and needs concerning our utility services considered by those elected or appointed to represent us; and
- To have these rights enforced by binding laws enacted by our elected representatives and by binding rules and regulations declared by those appointed by our government.

Thus, we urge the members of this Committee to pass House Bill 2563 so that our voices will remain heard in Kansas utility matters.

Thank you.