Approved: 3/19/03
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 9:30 a.m. on March 10, 2003 in Room 231-N of the Capitol.

All members were present except: Senator Wagle, excused

Committee staff present: Raney Gilliland, Legislative Research
Bruce Kinzie, Revisor of Statutes
Ann McMorris, Secretary

Conferees appearing before the committee:
Mark Schreiber, Westar
Tim Rush, Great Plains Energy
Charles Benjamin, Sierra Club
Jay Barnes, Kansas Natural Resources Council
Larry Holloway, KCC
David Springe, CURB
Bruce Graham, KEPCO
J. C. Long, Aquila

Others attending: See attached list

Chair opened the hearing on:
**HB 2130** - Encouragement of increased electric transmission capacity; facility siting; pass-through of costs.

Proponents:
Mark Schreiber, Westar Energy (Attachment 1)
Tim Rush, Great Plains Energy (Attachment 2)
Jay Barnes, Kansas Natural Resources Council (Attachment 3)
Charles Benjamin, Sierra Club (Attachment 4)
J. C. Long, Aquila (written testimony only) (Attachment 5)

Opponents:
Larry Holloway, KCC (Attachment 6)
Dave Springe, CURB (Attachment 7)

Question asked - who suggested this bill? Answer - Southwest Power Pool comprised of KCPL, Westar, Sunflower and Aquila. approached the House Utilities Committee regarding this bill.

Discussion on the suggested amendment. Chair closed hearing on **HB 2130**.

Chair opened hearing on
**HCR 5007** - Resolution urging FERC to take action to ensure expansion and improvement of the electric transmission system

Proponents
Bruce Graham, KEPCO (Attachment 8)
Charles Benjamin, Sierra Club (Attachment 4)

Chair closed hearing on **HCR 5007**
The next meeting of the Senate Utilities Committee will be on March 11, 2003

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary

Attachments - 8

# SENATE UTILITIES COMMITTEE GUEST LIST

## DATE: **MARCH 10, 2003**

| Name | Representing |
|---|---|
| David Springe | Curb. |
| Jay Barnes | KNRC |
| [illegible] | KCC |
| MARK SCHREIBER | Westar Energy |
| Bruce Graham | KEPCo |
| Steve Johnson | Kansas Gas Service |
| Larry Holloway | KCC |
| Robert F. Oakes | Westar Energy |
| Tim Rush | KCPL Kansas City Power & Light |
| Tom Stuchlik | Westar Energy. |
| Cynthia Smith | Great Plains Energy |
| TOM DAY | KCC |
| Dave Holthaus | KEC |
| Charles Benjamin | Sierra Club - KS |
| | |
| | |

**Testimony before the**
**Senate Utilities Committee**
**By**
**Mark Schreiber, Senior Manager, Government Affairs**
**Westar Energy**
**March 10, 2003**

Chairman Clark and members of the committee, I am Mark Schreiber, senior manager, government affairs for Westar Energy.

Westar Energy offers its support of House Bill 2130. We appreciate the Legislature's effort to encourage transmission construction.

As an electric energy provider, we are well aware of the bottlenecks that can occur in Kansas' transmission system and the effect of those bottlenecks on the state's economic development. It is important that a remedy to this problem is found.

Adding transmission capacity to a system is a challenging proposition. First, access to the money to invest in upgrades is limited. Second, often those who benefit most from the improvements are not those who bear the cost.

Westar Energy believes in the importance of utilities participating through Regional Transmission Organizations in expansion of the transmission infrastructure and in determining a fair way to pay for that expansion.

H.B. 2130 accomplishes some important things. First, it allows the Kansas Corporation Commission to consider the benefits of investment in the transmission system that will be realized by out-of-state users. Enabling the commission to consider the regional picture will make the transmission system as whole more cost effective.

Second, Section 2 of the bill permits utilities to pass on transmission costs to customers through a line item on their bill. FERC's regulation of transmission service will provide oversight; this oversight should be sufficient to allow utilities to pass on these costs without the burden and expense of a full rate case.

Westar Energy believes House Bill 2130 will benefit the Kansas and Midwest economies by facilitating the expansion and improvement of our transmission system. I urge you to support this bill.

# Testimony before the Senate Committee on Utilities
# In Support of House Bill No. 2130

**Tim M. Rush**
**Director, Regulatory Affairs**
**Kansas City Power & Light Company**
**March 10, 2003**

Thank you Chairman and members of the Committee for this opportunity to appear before you today and offer testimony on HB 2130. Kansas City Power & Light ("KCPL") is in support of this bill.

HB 2130 amends K.S.A. 66-1,180 concerning transmission siting and cost recovery as it supports the national movement of our industry to more competitive and open wholesale energy markets.

Amended Section 1 – Transmission Siting

Under current law, the Kansas Corporation Commission ("KCC") must determine the necessity for and the reasonableness of the location of proposed transmission facilities. Depending upon the interpretation of the term "necessity", the current statute could effectively block the construction of new transmission facilities that benefit the broader region, but may not be necessary for directly serving Kansas retail electric consumers. As such, the changes proposed in this bill allow the KCC to take into consideration the benefits to consumers inside and outside of Kansas. This broadens the issues that the KCC will consider when approving transmission siting and should ease the ability to site new transmission facilities that benefit all the consumers within this region.

New Section 2 – Transmission Cost Recovery

While the provisions in this section related to recovery of transmission related costs are supported by KCPL, we do not intend to take advantage of these provisions for a number of years. As part of a negotiated settlement reached in 2002 with the KCC to reduce KCPL's retail rates by 3.237%, effective January 1, 2003, KCPL and the KCC Staff agreed not to file any case requesting a general increase or decrease in KCPL's retail electric rates until approximately May 2006. KCPL could elect to unbundle the cost associated with transmission service implementing the provisions of this Section at that time.

Thank you for your time and I would be glad to answer any questions from the Committee.

**Utilities Committee Hearings**
**State Senate of Kansas**
**March 10, 2003**

**Testimony on HB 2130**

**Jay Barnes, Executive Director**
**Kansas Natural Resource Council**

HB 2130 – An act concerning transmission of electric power, and relating to siting of certain transmission lines.

Mr. Chairman, I am Jay Barnes, Executive Director of Kansas Natural Resource Council. KNRC is a nonprofit environmental organization, dedicated for 22 years to education and advocacy on in-state issues of natural resources and the environment. I address you today to request an important amendment to House Bill 2130, which pertains to State Corporation Commission decisions on location of electric transmission lines. KNRC believes that there is unintended consequence in the current wording of this bill that, while absolutely necessary to address, can be addressed effectively with only minor amendment.

Current statute, KSA 66-1,180, requires that State Corporation Commission decisions on proposals for location of electric transmission lines address the "necessity for and reasonableness of" the location. That is the sum total of the required considerations for such decisions under current statute.

House Bill 2130 would expand the required considerations in such SCC decisions to include consideration of "the benefit to both consumers in Kansas and consumers outside the state and to economic development benefits in Kansas."

By further defining the criteria for "necessity and reasonableness", statute content would then appear to the reader to confine the decision criteria to those factors listed.

Thus, if enacted, this bill's impact is to effectively exclude any measure of environmental impact as a valid consideration for decisions on location of electric transmission lines, something easily implied and actually applied in practice as included in the broader language of the current statute.

It is on this basis that KNRC asks for amendment to HB 2130 to clarify that environmental considerations remain a part of the criteria for SCC siting decisions. We understand the reasons for the proposed changes to statute and believe the point we make about particular consequences of current language to be unintentional. Nevertheless, we would oppose this bill in whole if it is allowed to go forward with provisions that would so clearly effectively remove environmental impact as a valid consideration in siting decisions for transmission lines.

Much of the work that KNRC has done with the SCC as a member of the Kansas Renewable Energy Working Group has been focused on minimizing the impact on the environment from the welcome spurt in growth of wind generated electricity in Kansas. That work brought the oversight of the wording of this bill to attention. Miles and miles of electric transmission lines certainly have potential for impact on the environment and that impact, along with many other considerations, needs to be considered in siting decisions. KNRC is simply asking that you neither take that authority away from the SCC, nor even appear to take it away, by approving the wording of this bill as it now stands.

We suggest amendment wording that either, and preferably, **specifies that environmental considerations be included as siting decision criteria, or, minimally, that makes it clear that the required "reasonableness" test continues to include a broad range of** considerations beyond the specifics of the criteria contained in the wording of HB 2130.

Thank you for your time and attention this morning. I would be glad to respond to any questions that you might have.

**Contact Information**

Jay Barnes, Executive Director

Kansas Natural Resource Council

PO Box 21346

Wichita, KS 67208

Phone: 316-686-6043

Email: jay@knrc.ws

Website: www.knrc.ws

Testimony in support of HB 2130 and HCR 5007

Charles M. Benjamin on Behalf of the Kansas Chapter of the Sierra Club

Before the Kansas Senate Utilities Committee
March 10, 2003

Mr. Chairman and members of the Senate Utilities Committee, thank you for the opportunity to testify in favor of HB 2130 and HCR 5007. I am including with this testimony the February/March 2003 issue of the Planet Kansas – the official publication of the Kansas Chapter of the Sierra Club. The lead article in this issue contains the Kansas Chapter's position on wind farms developments in Kansas. Scott Smith the Chair of the Kansas Sierra Club's Executive Committee, and Bill Griffith, the chair of the Chapter's Conservation Committee, wrote this position paper on behalf of the Chapter. HB 2130 and HCR 5007, that encourages increased transmission line capacity in Kansas, are consistent with the Chapter's position on wind farms in Kansas. I am here therefore to encourage you to support this legislation.

**HB 2130** would amend existing law regarding siting of electrical power transmission lines by requiring the Kansas Corporation Commission (KCC) to consider, during its decision making process, benefits to consumers inside and outside Kansas and the "economic development benefits" to Kansas. The bill would enact new law regarding recovery of transmission costs by allowing electric utilities to pass through to their retail customers the costs of transmission. The House Utilities Committee amended the bill to require that the initial application of a transmission delivery charge to a utility bill would not result in an effective rate increase. The Kansas Renewable Energy Working Group, of which the Kansas Chapter of the Sierra Club is a member, supported this bill because it encourages the development of large-scale wind farms in Kansas.

**HCR 5007** is a non-binding resolution urging the Federal Energy Regulatory Commission to work to develop sufficient electric transmission facility infrastructure and design and implement regional transmission organizations and cost recovery mechanisms. The resolution arises out of recognition by the United States Department of Energy that Kansas is first in the nation in wind energy production potential but frustration that the full development of this potential cannot be realized because of significant constraints in the transmission system.

Thank you for this opportunity to testify. I will be happy to stand for any questions.

Senate Utilities Committee

Testimony in Favor of HB No. 2130
By
Mike Apprill, Vice President
Resource Management Aquila Inc.

Mr. Chairman and member of the committee:

My name is Mike Apprill and I am Vice President of Resource Management for the Aquila Networks in Kansas, Colorado and Missouri. Our WestPlains Energy division has 70,000 electric customers in central and western Kansas serving both retail and wholesale power. I am here today on behalf of Aquila in support of HB 2130.

The Bill provides for modifications to the siting of certain proposed transmission lines to require the commission to consider economic development benefits in Kansas and to consider benefits for consumers both inside and outside the state of Kansas. In addition the Bill adds a provision to allow utilities to recover transmission related cost through separate delivery charges on retail customers bills.

The advantages of these new provisions are:

1. The state of Kansas is ideally situated to be a major producer and exporter of renewable wind energy into other states. But without additional transmission facilities constructed, it will be impossible to export and therefore the incremental potential above Kansas' own needs will not be realized to the detriment of property owners and taxpayers in Kansas. The proposed changes to the siting provisions will allow the commission to take into account those benefits and allow siting for the transmission to be approved.

2. The utilities in the state of Kansas will likely be forced to join a Regional Transmission Organizations (RTO) during 2003 due to requirements by FERC. The advantage of a large regional transmission tariff across several states will allow utilities to buy or sell power through a single price and avoid the excess cost of transmission pancaking. How does this impact HB 2130 which allow Kansas utilities to separate and adjust transmission delivery charges on customer's bills? The key benefit seen by customers will be the flexibility of more frequent price adjustments as the transmission facilities are utilized for more wholesale transactions; resulting in more of the delivery charges being picked up by those wholesale customers. As an example, suppose a wind farm developer builds a 100MW wind farm and has a contract to sell the output to customers in Missouri. The developer will need to purchase transmission to do so. To the extent they use and pay for existing transmission facilities, the retail customers will be relieved of that cost which will pass through and be reflected in

the separate transmission delivery charge. Similar benefits will be realized as the RTO efficiencies are realized with access to larger markets.

3. It is important to recognize that transmission will continue to be regulated and that the states' are expected to be fully involved in the transmission planning process and of course in approval of siting of major facilities.

Thank you Mr. Chairman for the opportunity to appear before you today in support of HB 2130. I would be glad to try and answer any questions you may have.

TEST YEAR ENDING
12/31/2001

MIDWEST ENERGY - ELECTRIC
CLASS COST-OF-SERVICE
03-MDWE-001-RTS

5-3

| ALLOCATION RATIOS | | RESIDENTIAL | | GENERAL SERVICE - SMALL | | | | GENERAL SERVICE - LARGE | | | OIL FIELD | | OIL FIELD con't | | | IRRIGATION | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ALLOCATOR | TOTAL | REGULAR | ALL ELECTRIC | SM C&I | DEMAND | TIME OF DAY | ANNUAL | LARGE | TIME OF DAY | HEATING | SM GENERAL | SM DEMAND | SM-TOD | OFS | TIME OF DAY | FROZEN | TIME OF DAY | T&T | INCIDENTAL | LIGHTING |
| PEAK DEMAND (Kw) | | | | | | | | | | | | | | | | | | | | |
| COINCIDENT PEAK 3CP | 144,319 | 56,819 | 1,916 | 12,462 | 214 | 44 | 233 | 26,967 | 221 | 8 | 3,950 | 1,926 | 6 | 22,334 | 4 | 13,417 | 752 | 1,991 | 1,055 | 0 |
| COINCIDENT PEAK 12C | 107,442 | 36,209 | 1,674 | 10,015 | 172 | 35 | 187 | 23,229 | 190 | 7 | 4,194 | 2,048 | 7 | 23,717 | 4 | 3,921 | 318 | 843 | 308 | 364 |
| ENERGY (Kwh) | 731,909,688 | 207,963,211 | 10,535,887 | 63,738,272 | 1,097,951 | 227,164 | 1,194,841 | 169,954,545 | 1,390,069 | 48,195 | 31,883,262 | 15,566,180 | 49,757 | 180,006,176 | 32,884 | 24,079,452 | 4,673,383 | 11,295,950 | 1,903,220 | 6,269,290 |
| Transmission Rate | | 0.0051 | 0.0051 | 0.0045 | 0.0045 | 0.0045 | 0.0045 | 0.0039 | 0.0039 | 0.0039 | 0.0038 | 0.0038 | 0.0038 | 0.0038 | 0.0038 | 0.0047 | 0.0021 | 0.0021 | 0.0045 | NA |

Note: Retail service only
3CP is the total of the three highest monthly peaks coincident with the system..
12CP is the total of the twelve highest monthly peaks coincident with the system..

Note: transmission rates for all classes are kwh based, however kwh rate is based upon 3CP demand allocator.

Larry Holloway

3/10/2003

**BEFORE THE SENATE UTILITIES COMMITTEE**
**PRESENTATION OF THE**
**KANSAS CORPORATION COMMISSION**
**March 10, 2003**
**HB 2130**

Thank you Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2130.

The purpose of my testimony is to provide information and perspective on HB 2130. This legislation proposes a pass through mechanism to retail utility customers for all transmission costs that are not currently covered in a utility's rates. The Commission does not support HB 2130. The Commission is well aware of increasing transmission costs that utilities are facing as they struggle to adopt regional transmission tariffs and to develop working regional transmission operators. Furthermore the Commission is concerned that these costs may be preventing necessary transmission investment and utility participation in regional transmission entities, which could affect the reliability of Kansas electric transmission service. Nonetheless, the Commission believes that this legislation is unnecessary and could be easily misinterpreted and abused.

First, the Commission already has the authority to establish a pass through mechanism for a utility's transmission costs. A good example is the action the Commission has taken regarding gas transportation costs, which are somewhat analogous to electric transmission costs. Gas transportation costs are currently a part of the purchased gas adjustment, or PGA, used by most of our natural gas utilities. It is important to note that the development of the current PGA mechanism did not occur overnight and that this mechanism has evolved over the years, much as the natural gas industry itself has evolved, to address changes in federal and state regulation and policy. Nonetheless the Commission has successfully addressed these changes and modified the PGA mechanism as appropriate to recover the costs, even as the business has evolved. The

Commission was able to make these changes to address an evolving industry without the limitations of overly specific statutory language.

The federal and state regulation of electric transmission is currently in the same stage of rapid evolution as gas transportation costs were fifteen years ago. The Commission needs similar flexibility to address electric transmission costs and charges as the industry rapidly evolves. It would be difficult, if not impossible, to craft statutory language that would follow these changes.

Second, implementation of a surcharge for transmission costs is a challenge from a rate design perspective. For example, network service transmission tariffs are normally based upon a transmission customer's monthly demand. If a Kansas utility placed its retail customers on its network transmission service tariff, the monthly charge would be related to the overall monthly demand of the utility. A transmission charge based upon energy usage, or kilowatthours, could unfairly charge large high load factor customers an inappropriate amount, if the monthly transmission charge were merely divided by the overall monthly energy usage. It is important to understand that the utility is indifferent to rate design, as long as the overall amount recovered each month equals its transmission charge. As an extreme example, a utility is neither harmed nor benefited if one customer pays the entire cost, however the customer is certainly affected.

Unfortunately, because under section 2 (b) of this bill the utility may implement a surcharge without Commission approval, and the Commission is limited to only review that the charge resulted from a federal regulatory order, it is not clear that the Commission will even have the authority to ensure that the surcharge is fair to all customers. Nonetheless, as stated in K.S.A. 66-101b, the Commission is held responsible for fair and equitable rate design: "....Every unjust or unreasonably discriminatory or unduly preferential rule, regulation, classification, rate, charge or extraction is prohibited and is unlawful and void. ..." Yet this legislation implies that the electric utility may now violate this important customer protection policy as long as the utility recovers its transmission costs. Rate design is just one of the complex issues that the Commission is uniquely designed to address, but this inflexible statutory language cannot.

Another complexity that this legislation fails to address is the definition of electric transmission, which is increasingly part of the national debate regarding wholesale electric markets. For example, when the Federal Energy Regulatory Commission (the FERC) adopted its open access transmission requirements in Order 888, it referred to certain "ancillary transmission services" that were clearly generation related, such as line losses, frequency control, etc. As another example, consider two power purchases. In the first case the power seller delivers the power to the utility with no transmission charge. In the second case the power seller requires the utility to pay the transmission charge. Is this a transmission cost or merely part of the purchase power costs? Certainly under this legislation a utility may decide to purchase power and transmission separately if it can immediately pass through the costs of the transmission, even if the overall delivered cost of power is higher. This legislation could create an incentive that would increase purchase power costs for all of the utility's customers.

The Commission has been actively following many of the transmission issues now being debated nationally, including the development of regional transmission tariffs for network service and other regional transmission charges and fees. The intent of these tariffs and charges is to assure that wholesale transmission customers, as well as retail customers of a transmission owning utility, pay the same price for the same transmission service. As in the natural gas business several years ago, these transmission costs and charges are still evolving. It is difficult to contemplate any language that could be corrected in the bill that could evolve with the industry.

Section 2

Instead of legislation, the Commission suggests that it open a generic docket and investigation establishing and designing a surcharge allowing the utility to pass through the costs of its regional transmission tariff and charges. This proceeding could fully develop the issues and put in place a mechanism that would address the legislature's concerns in a manner that is just, reasonable, and not unduly preferential between customer classes. The goal would be to develop this mechanism by January 1, 2004. The intent would be to allow recovery that would encourage Kansas utilities to not only construct and build necessary transmission, but to participate in regional transmission entities. The hope would be that the resulting reliability and transmission access would benefit not only the transmission owners, but also their retail and wholesale customers. The result would be a fair and equitable transmission surcharge for all customers.

In summary the Commission is not opposed to a transmission surcharge, however it does oppose implementing such a surcharge through inflexible and harmful statutory language. The Commission does note, however, that no utility has ever mentioned the need or requested such a surcharge. Nonetheless, the Commission does agree a transmission surcharge properly designed and modified as federal regulation and legislation evolves, is needed to ensure the development of a robust and reliable regional transmission system. While this legislation may ensure that the utility recovers its investment, the Commission urges the legislature to allow the Commission to develop such a surcharge in a manner that is fair and equitable for both the utility and its Kansas customers.

# Citizens' Utility Ratepayer Board

**Board Members**:
Gene Merry, Chair
A.W. Dirks, Vice-Chair
Frank Weimer, Member
Francis X. Thorne ,Member
Nancy Wilkens, Member
David Springe, Consumer Counsel

**State of Kansas**
*Kathleen Sebelius, Governor*

1500 S.W. Arrowhead Road
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## SENATE UTILITIES COMMITTEE
## H.B. 2130

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel

Chairman Clark and members of the committee:

Thank you for this opportunity to appear before you today an offer testimony on H.B. 2130. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill does two things. First, it adds three new tests that the Commission must consider when reviewing an application to site a transmission line. Second, it creates a separate line item on consumer bills to pass through costs associated with transmission of electric power to consumers.

1) New Statutory Tests:

The existing statutory scheme requires the KCC to consider "necessity' and "reasonableness of location" when deciding whether to issue a site permit for a proposed transmission line. The bill now requires the Commission to also consider and a) benefit to customers in Kansas, b) benefit to customers outside of Kansas, and c) economic development benefits in Kansas. These three additional requirements are nebulous and difficult to define at best. While I am not a transmission engineer, I do understand that building a transmission line in Kansas may have unknown impacts on other transmission lines, both in Kansas and outside of Kansas, by changing line flows. Conversely, building power plants or transmission lines outside of Kansas may have unforeseen impacts on Kansas transmission lines. Attempting to evaluate these impacts with reference to the benefits to customers, both in Kansas and outside of Kansas, and on economic development would be difficult, and quite possibly contentious. These additional tests are unnecessary and add undue complexity to the transmission siting process. Would this language require the Commission to site a transmission line that has no benefit to Kansas, but benefits someone outside of Kansas? Further, will the cost pass through language in New Section (2)(a) and (2)(b) cause Kansas ratepayers to pay for this transmission line, even where the benefit is only to someone outside of Kansas?

2) Transmission Recovery Charge:

a. This bill allows an electric utility, at its option, to create a line item on the consumer bill for transmission delivery charges. While CURB is not necessarily opposed to deconsolidating electric retail rates into component parts, such as a transmission delivery charge, CURB does not believe this bill is necessary to accomplish this task. Any utility can propose this same measure by filing an application at the Commission. In fact, Midwest Energy has deconsolidated its customer electric bills through this KCC process.

b. New Section 2(a) The transmission delivery charge will recover costs associated with transmission of electric power to retail customers. However the bill is silent on what types of transmission cost can be included in the transmission delivery charge. Transmission costs come in many forms, from pure transmission tariff rates, to ancillary services charges, to transmission costs included in a power purchase contract, to back office staffing costs related to transmission engineering and billing, to regulatory costs for transmission related filings, to dues from participation in power pools and retail transmission organizations, to computers and software to tracking transmission flows, and so on. Administering what cost is transmission related, and appropriate for inclusion in the transmission charge, verses what costs are not transmission related and therefore appropriate for inclusion in retail rates will be a difficult task going forward. Providing more specific guidance as to what costs may be included in the transmission delivery charge would be preferable. For example, only specifically identified tariff charges could be included, but not all miscellaneous charges. Providing specific guidance on a limited set of charges that would be appropriate for inclusion in the transmission delivery charge will also create consistency between electric utilities that choose to implement this type of charge.

c. New Section 2(b) The bill states that transmission related costs that result from and order of a regulatory authority having legal jurisdiction over transmission matters "shall be conclusively presumed prudent". (I presume this is reference to the Federal Energy Regulatory Commission) The bill allows an electric utility to summarily change its transmission delivery based on these changes. CURB has several concerns related to this portion of the bill. First, since the bill appears to leave the decision to change rates in the hands of the utilities, it is unclear whether the KCC or CURB have the ability to require a price change in instances where transmission costs might decrease. Second, it is unclear whether the KCC or CURB have the ability to review the actual purchase decisions of the electric utility. The bill appears to limit the review to inquiring whether the rate change was due to an "order described by this section". Third, creating a "conclusive presumption of prudence" may result in the utility making decisions that are not the least cost option for consumers. A more expensive decision that comes with a conclusive presumption of prudence will always be preferred to a less expensive option that is not conclusively presumed prudent. Fourth, as noted above in point (b), the authority granted in this section only makes sense if the costs allowed under a transmission delivery charge are limited to those areas that could be addressed by a "regulatory authority having jurisdiction over transmission matters", i.e., FERC tariff charges. If the FERC, after review, changes a FERC transmission tariff (i.e. a network tariff rate), and FERC tariff rates are all that is included in the transmission delivery charge, while not eliminating CURB's concern about oversight, the section would at least be internally consistent. However, the language of this bill is much broader than this restricted possibility.

d. Lastly, the bill precludes the Commission and CURB from reviewing the utilities retail rates when the utility changes its transmission delivery charge. This language gives utilities the ability to increase rates to consumers while precluding the consumer's ability to seek rate decreases. This is unfair to consumers.

## *Testimony on HCR 5007*
## *Senate Utilities Committee – March 10, 2003*

*Delivered by Bruce Graham, KEPCo*
*on behalf of*

*Kansas Electric Power Cooperative, Inc. (KEPCo)*
*Sunflower Electric Power Corporation ♦ Westar Energy*
*Kansas Electric Cooperatives, Inc. ♦ Aquila, Inc.*
*Kansas Municipal Utilities ♦ Great Plains Energy*

As you are aware, there is a growing need to expand and improve the transmission system here in Kansas and in many areas of the United States in order to enhance electric system reliability and efficiently deliver power to markets.

Because of the interstate nature of electricity transmission, the Federal Energy Regulatory Commission (FERC) should, as HCR 5007 suggests, assume a leadership role in the development of sufficient transmission infrastructure and implementation of regional transmission organizations.

In fact, FERC is in the process of developing that process through a rulemaking called Standard Market Design (SMD). SMD could be a comprehensive restructuring of the electric transmission and distribution system. It calls for the development of a regional and perhaps national system with rules for access, construction, and order. To some it is akin to the development of an interstate highway system, only this may require transferring control of utility assets for the greater national good.

That is where FERC has run into some problems. The agency's first SMD draft brought significant comments. As a result, FERC is working on revisions and announced that it will issue a white paper update in April.

FERC may ultimately be successful in creating a positive SMD, but there holds the possibility that the ruling would be detrimental to Kansas customers. Therefore, HCR 5007 supports FERC's continued effort to resolve issues related to continued reliability and cost recovery of transmission facility upgrades while urging them to work with the State of Kansas in the development of these rules.

We support that position and HCR 5007. Thank you for the opportunity to present these joint comments.