

Approved: April 29, 2005  
Date

*Carl D. Holmes*

## MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:08 a.m. on February 21, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Bonnie Huy - Excused  
Representative Judy Showalter - Excused

Committee staff present: Mary Galligan, Legislative Research  
Dennis Hodgins, Legislative Research  
Mary Torrence, Revisor of Statutes  
Jo Cook, Administrative Assistant

Conferees appearing before the committee:

Representative Frank Miller, Independence, KS  
Steven Potter, Sedan, KS  
Ed Jaskinia, Associated Landlords of Kansas, Topeka, KS  
Kim Gulley, League of Kansas Municipalities, Topeka, KS  
Carl Huglig, Aquila, Kansas City, MO  
Susan Cunningham, Kansas Corporation Commission, Topeka, KS  
David Springe, Citizens' Utility Ratepayers Board  
Mark Schreiber, Westar Energy, Topeka, KS

Others attending: See Attached List

### **HB 2463 - Cost recovery for local exchange carriers whose facilities are used to terminate calls delivered by other service providers**

Chairman Holmes reconvened the debate on **HB 2463**. Representative Krehbiel distributed a balloon for the committee's consideration (Attachment 1). Representative Krehbiel moved the adoption of the balloon. Representative Sloan seconded the motion. The motion carried. Representative Sloan moved to recommend HB 2463, as amended, favorable for passage. Representative Svaty seconded the motion. The motion carried. Representative Krehbiel will carry the bill.

### **HB 2279 - Municipal utility services; liens for unpaid charges, exceptions**

Chairman Holmes opened the hearing on **HB 2279**.

Representative Frank Miller, sponsor of **HB 2279**, addressed the committee in support of the bill (Attachment 2). Mr. Miller said that the new language brings trash and refuse removal service under the same condition as water and sewer service. He stated that it was important landlords be protected from irresponsible tenants.

Ed Jaskinia, on behalf of the Associated Landlords of Kansas, addressed the committee as a proponent of **HB 2279**. He told the committee that landlords could now have tax liens placed on their property if a tenant fails to pay for their trash removal services.

Steven Potter testified in support of **HB 2279** (Attachment 3). As a landlord, Mr. Potter has experienced receiving charges for waste removal on renters who did not pay their bills. He was told the charges would be added to their tax statements along with late charges and a service fee.

Kim Gulley, Director of Policy Development & Communications for the League of Kansas Municipalities spoke to the committee as an opponent to **HB 2279** (Attachment 4). Ms. Gulley explained why there are allowances for cities to collect unpaid solid waste disposal fees from landlords when tenants do not pay.

The conferees responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2279**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N, Statehouse, at 9:08 a.m. on February 21, 2005.

**HB 2465 - Time limit for KCC action on electric utilities' recovery of transmission costs**

Chairman Holmes opened the hearing on **HB 2465**.

Carl Huslig, Vice President Transmission for Aquila Networks, testified in support of **HB 2465** (Attachment 5). Mr. Huslig told the committee that this bill changes the regulatory clock for response to bifurcation filings at the corporation commission.

Susan Cunningham, General Counsel for the Kansas Corporation Commission, addressed the committee in opposition to **HB 2465** (Attachment 6). Ms. Cunningham said that Commission staff was currently working with two companies on bifurcation filings, neither of which had been filed, and placing a regulatory clock on these types of proceedings could be detrimental to both parties.

David Springe, Consumer Counsel for the Citizens' Utility Ratepayer Board, appeared as an opponent to **HB 2465** (Attachment 7). Mr. Springe stated that CURB believes this type of artificial time constraint is not good for the public and that 90 days is far too short for this type of review.

Mark Schreiber, Manager Government Affairs for Westar Energy, spoke in opposition to **HB 2465** (Attachment 8). Mr. Schreiber said that the 90 day window provided in the legislation may be too short of a period of time to perform the complicated process if a bifurcation filing.

The conferees responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2465**.

The meeting adjourned at 10:33 a.m.

The next meeting is Tuesday, February 22, 2005 at 9:00 a.m.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 21, 2005

NAME	REPRESENTING
Nelson Krueger	Western Wireless
Mark Opligis	Sprint Tel Assn SITA
Tom Gleason	Independent Telecom. Group
DINA FISK	Verizon Wireless
David Sprunge	Carb
Julie Allen	Allen Consulting
Steve Johnson	Kansas Gas Service
Steve Pottor	
Mickel Potts	
Colleen Jennison	Cox Communications
Anne Spess	KTIA
WADE HAPPOOD	SPRINT
SEAN MILLER	KTIA
Lucas Bell	Kearney and Associates, Inc.
Don Murray	Federico Consulting
Sandra Borden	Langdale / Great Plains
Tim Gortner	Singtel Wireless
Kim Gulley	CKM
Marox Petty	KEC
BRUCE GRAHAM	KEPCo

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 21, 2005

NAME	REPRESENTING
Dan HOLTHUIS 1	KEC
Rep. FRANK MILLER	
Joe Dick	KCBPU
Tom Day	KCC
Susan CUNNINGHAM	KCC
Mark SCHREIBER	Westar Energy
Kimberly (Geneva)	Aquila
Carl Buslig	Aquila
ED JASKINIA	THE ASSOCIATED LANDLORDS OF KANSAS

Krehbiel  
2/21/05

Session of 2005

## HOUSE BILL No. 2463

By Committee on Utilities

2-11

9 AN ACT concerning telecommunications; requiring compensation of  
10 certain local exchange carriers for certain use of their facilities.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this section:

14 (1) Terms have the meanings provided in K.S.A. 66-1,187, and  
15 amendments thereto.

16 (2) "Intermediary provider" means a service provider, other than the  
17 originating provider or terminating local exchange carrier, which carries  
18 a two-way voice grade communication, regardless of technology used.

19 (3) "Originating provider" means a service provider, other than the  
20 terminating local exchange carrier, which originates a two-way voice grade  
21 communication, regardless of technology used.

22 (4) "Terminating local exchange carrier" means a local exchange car-  
23 rier the facilities of which are used to terminate a two-way voice grade  
24 communication, regardless of technology used.

25 (b) The terminating local exchange carrier shall receive compensation  
26 from the ~~originating or intermediary provider delivering~~ a two-way voice  
27 grade communication to such carrier. Unless otherwise provided pursuant  
28 to an agreement between the originating provider and terminating pro-  
29 vider, such compensation shall be at the same rate as determined pur-  
30 suant to subsection (c) of K.S.A. 66-2005, and amendments thereto, for  
31 intrastate switched access.

provider originating

32 ~~(c) An intermediary provider may recover from the originating pro-~~  
33 ~~vider or other provider delivering a two-way voice grade communication~~  
34 ~~to the intermediary provider the amount of compensation paid by the~~  
35 ~~intermediary provider to the terminating local exchange carrier or another~~  
36 ~~provider pursuant to this section.~~

(c)

37 ~~(d)~~ Upon application, the state corporation commission shall author-  
38 ize a terminating local exchange carrier ~~and~~ intermediary providers to  
39 block two-way voice grade communication from being delivered to an  
40 end user from an originating provider if the commission finds the origi-  
41 nating provider has failed to pay adequate compensation as required by  
42 this section.

or

(d)

43 ~~(e)~~ The provisions of this section shall not apply to communications

The provisions of this section shall not apply to communications subject to Commission Order setting compensation for expanded local calling plans offered by wireline providers.

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ATTACHMENT 1

STATE OF KANSAS

C. FRANK MILLER  
REPRESENTATIVE, TWELFTH DISTRICT  
MONTGOMERY, CHAUTAUQUA, AND  
ELK COUNTIES  
HOME ADDRESS: P.O. BOX 665  
INDEPENDENCE, KANSAS 67301  
TOPEKA OFFICE: STATEHOUSE, RM 431-N  
TOPEKA, KANSAS 66612  
(785) 296-7646



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
HEALTH AND HUMAN  
SERVICES  
ETHICS AND ELECTIONS  
LEGISLATIVE POST AUDIT

Monday February 21, 2005

Honorable Representative Carl Holmes, Chairman  
Members of the House Utilities Committee

It is my pleasure to stand before you today in support of HB 2279.

Mr. Chairman I have had numerous calls from landlords telling me that the municipality has placed a tax lean on their rental property because a tenant moved out without paying all of his or her bills.

Present law allows the municipalities to place a lean on the property owner's tax roll for any unpaid bills for water and sewer charges. The law also allows these services to be discontinued until the unpaid amount has been paid. These charges are thus subject to the same penalties and collected in like manner as other unpaid taxes. However, the law does not apply if the unpaid water or sewer bill was contracted for by a tenant and not the landlord or the owner of the property.

New section 5 on page 3 of the bill, simply places trash and refuse removal service under the same conditions as for water and sewer services. In this case too, the law would not apply if the unpaid trash removal service bill was contracted for by a tenant and not the landlord or the owner of the property.

It is important that landlords be protected from irresponsible tenants; otherwise we are going to see a further erosion of economical rental property.

I urge the committee to support HB 2279.

Thank you Mr. Chairman and I stand for questions.

Testimony submitted by

A handwritten signature in blue ink that reads "C. Frank Miller". The signature is written in a cursive, flowing style.

Representative Frank Miller

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ATTACHMENT 2

Feb. 20, 2005

Steven J. Potter  
Mickie D. Potter  
128 Red Bud Lane  
Sedan, Ks. 67361

Dear Mr. Chairman:

According to the law applied to all homeowners in Chautauqua County the homeowners of a rental/contract selling property is responsible for the solid waste bill at that residence. When utilities are turned on at the residence, the solid waste becomes a mandatory service, for that residence.

Renters/citizens are not required to sign up for this service, they just get a bill 3 months after turning on the utilities. If the renter does not pay, the bill is turned back on to the property owner. When we first moved to Cedar Vale in 1992, we didn't live at the home we bought for 3 months, but even though we didn't use the trash service we were billed for 3 months service we did not use nor signed up for.

The most recent incident is when we sold our house in Cedar Vale on contract, and the lady who was buying our home didn't pay her solid waste bill the entire time she lived there. Not being notified by the solid waste department of her being delinquent, nor did the service get shut off for non payment. She lived at this residence from January 2004 through July 2004. It was only when her utilities were shut off that we were not liable for her bill.

September 9, 2004, we received a letter from Chautauqua County to appear for a hearing on this matter. We were served for two renters not paying their solid waste bill. We were told their charges would be applied to our taxes, along with late charges of \$0.50 per month and a \$25.00 fee for this service.

Sincerely,

*Steve Potter*  
*Mickie Potter*

*HOUSE UTILITIES*

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ATTACHMENT *3*



League of Kansas Municipalities

To: House Utilities Committee  
From: Kim Gulley, Director of Policy Development & Communications  
Date: February 21, 2005  
Re: Opposition to HB 2279

Thank you for the opportunity to appear before you today on behalf of the 565 member cities of the League of Kansas Municipalities (LKM). LKM and our member cities stand in opposition to SB 2279. Because HB 2279 would prohibit the collection of fees due and owing to the city from landlords, HB 2279 would have a negative impact on all cities that operate solid waste disposal services.

Under state law, and most city ordinances, cities are allowed to collect fees for solid waste disposal services from landlords if a particular tenant refuses to pay their bill. There are three key reasons for this policy.

- **Solid Waste Services Run With the Land.** Except for large commercial or industrial users, most solid waste fees are a flat monthly fee. The amount paid is not dependent upon the amount of trash that an individual puts out to be picked up. In this way, curbside solid waste services are really services which belong to the property and not to the individual residing at the property.
- **Equity.** The real crux of this issue is equity. If cities are unable to collect delinquent solid waste bills from landlords who have rented to tenants who refuse to pay their bills, then the remaining citizens of the city will bear the cost in higher solid waste rates. Citizens of the community who pay their bills in a timely fashion should not be penalized for those tenants who refuse to pay their bills. The landlords, who own the property and are using the property as a money-making enterprise, should be obligated to make sure that the city services which are delivered to that property are ultimately paid for.
- **Landlords Have Alternatives.** Allowing a tenant to individually contract for his or her own solid waste services is really up to the landlords. Many landlords simply include solid waste services as part of their rent charges, thereby avoiding the situation where a tenant "skips out" on the payment of those charges.

The lien which is provided for in statute and in most city ordinances is the mechanism by which cities and their citizens can be assured that each property pays its fair share for the use of city services. HB 2279 would amount to a subsidy of landlords by property owners who pay their bills appropriately. For these reasons, we respectfully request that you do not report HB 2279 favorably for passage. Thank you for the opportunity to share our concerns on this issue. I would be happy to stand for questions at the appropriate time.

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**Testimony In Support of House Bill No. 2465  
House Utilities Committee  
February 21<sup>st</sup>, 2005**

*Prepared by  
Carl A. Huslig- V.P. Transmission  
Aquila Networks – WPK  
Raytown, Missouri*

Good Morning Mr. Chairman and fellow committee members. My name is Carl Huslig and I am the Vice President of Transmission for Aquila Networks – West Plains Kansas. Aquila appreciates the opportunity to testify before you in support of House Bill 2465.

I would like to begin by stating that this committee, and its counterpart in the Senate, has successfully promoted and passed legislation in recent sessions to enhance the transmission system in Kansas. The steps taken in recent years regarding transmission prompted the FERC Chairman, Pat Wood, to deem Kansas “best-in-class”- the model which other states should follow concerning the advancement of the transmission network. It is imperative that we continue to advance this “best in class” model which is why Aquila strongly supports this bill.

I recently had a conversation with Denise Bode, Chairman of the Oklahoma Corporation Commission (OCC) and President of the Regional State Committee (RSC) for the Southwest Power Pool (SPP). Chairman Bode requested a copy of KSA 66-1237 which allows for the unbundling or bifurcation of transmission investment and expense from our other costs in base retail rates. Bifurcation provides that transmission costs may be isolated from other retail rate costs and appear as a separate line item on our customers’ monthly bills.

In 2003, when the Kansas Legislature passed HB 2130, Kansas became the first state to enact bifurcation legislation. The OCC is in the process of drafting such legislation in Oklahoma.

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Chairman Bode went on to state that bifurcation legislation is the answer to Regional Transmission Organization (RTO) cost recovery and transmission expansion in the Southwest Power Pool. In fact, she stated that Chairs of the Texas and Arkansas corporation commissions agreed that this type of legislation is the only model to follow. FERC also concurs that transmission needs to be bifurcated.<sup>1</sup>

So why am I advocating the modification of a statute that Aquila and transmission experts in many other states so strongly support? Presently, the statute has no regulatory clock for response to bifurcation filings. A company could make a bifurcation filing at the Kansas Corporation Commission (KCC), but the KCC has no timetable upon which to respond. Such a timetable should be established. Without one, implementation could be delayed indefinitely thus impeding enhancement of the transmission network.

The KCC has a set 240-day clock to issue an order in a retail rate case. Since a bifurcation filing is based upon the most recent rate case data by statute, a 240-day clock is not necessary. A 90-day clock regulatory clock is appropriate and allows for ample time for a decision to be reached on the application.

Aquila also supports the modification in Section 1 (b) providing that 60-days after the report to the KCC is submitted, the new rates become effective.

Finally, Aquila appreciates the opportunity to provide input on this bill. Let's keep the momentum rolling. I am happy to stand for questions at the appropriate time. Thank you.

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<sup>1</sup> FERC Docket No. ER05-285, FERC staff agreed with AMP-Ohio that transmission needs to be bifurcated.

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66-1237

**Chapter 66.--PUBLIC UTILITIES**  
**Article 12.—MISCELLANEOUS PROVISIONS**

**66-1237. Electric utility recovery of certain transmission costs.**

(a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section shall be determined by the commission from transmission-related costs approved in the electric utility's most recent retail rate filing. If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, the commission shall, effective the same date as the effective date of the initial transmission delivery charge, reduce the electric utility's retail rates to such a level that the sum of the revenue recovered from such retail rates and the initial transmission delivery charge is equal to the revenue recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

(b) All transmission-related costs incurred by an electric utility and resulting from an order of a regulatory authority having legal jurisdiction over transmission matters shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies. The retail rates in effect at the time an electric utility changes its transmission delivery charge shall not be subject to review or change as a result of a change in the transmission delivery charge.

**History:** L. 2003, ch. 80, § 2; July 1.

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# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

**BEFORE THE HOUSE UTILITIES COMMITTEE  
PRESENTATION OF THE  
KANSAS CORPORATION COMMISSION  
February 21, 2005  
HB 2465**

Thank you, Chairman and members of the Committee. I am Susan Cunningham, General Counsel for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2465.

This legislation proposes to modify K.S.A. 66-1237 which was enacted by the 2003 legislature by limiting the amount of time the Commission has to review and approve an electric utility's application to recover its transmission costs through a separate delivery charge. The Commission opposes this legislation.

K.S.A. 66-1237, as currently enacted, requires the Commission to allow an electric utility to institute a separate transmission delivery charge. This is done in two phases. The first, as detailed in section "a" of the statute, requires an electric utility to file a proposal to recover its transmission costs through a separate charge. The Commission is required to establish the charge so that the utility's current rates are reduced such that the charge plus the reduced rates are equal to "the revenue recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge."

The second, or ongoing phase, as detailed in section "b" of the statute, allows the electric utility to change the transmission charge based upon an order of a "regulatory authority having legal jurisdiction over transmission matters." This is a reference to charges that could be imposed, for example, as the result of actions of the Federal Energy Regulatory Commission

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(FERC) or a Regional Transmission Organization. In this case the utility has to file a report with the Commission 30 days prior to changing the utility's transmission delivery charge.

This bill proposes to establish a 90-day time limit on the Commission's decision regarding the initial, or "first phase" filing, and a 60-day time limit for Commission action on ongoing or "second phase" filings. The Commission believes these time limits are unnecessary.

The purpose of the initial filing is to establish an unbundled transmission charge through a revenue-neutral change in the electric utility's rates. This is not a simple process, and while it involves no loss or gain by the electric utility itself, if it is done incorrectly, it can have a dramatic impact on the individual customer. To understand this problem it is necessary to understand the process that generally occurs in establishing utility rates.

Utility rates are established by first reviewing the utility's annual revenue requirement. The utility's annual revenue requirement is essentially the amount of money that the utility needs to collect through rates every year to cover its expenses and to allow its investors a return on their investment. After determining the amount of annual revenue requirement, the next task is the difficult one of rate design, or how to recover the annual revenue requirement from customers of various classes, such as residential, commercial and industrial. Normally utility rates are designed to allocate costs to the customers based upon the principle of "cost causation." This is accomplished by a class cost of service study. This study determines the cost to serve each individual utility customer class. While rate design is always difficult and somewhat subjective, the overall purpose is to properly assign the utility's costs to each customer in a manner that best reflects the cost of providing service to that customer. While the utility and Commission Staff and interveners often have different ideas regarding revenue requirements and rate design, in the end, the utility is generally indifferent to small changes in the rate design itself. The reason is quite simple. The utility recovers the same annual revenue requirement regardless of the rate design.

The language in K.S.A. 66-1237 explicitly requires that the initial transmission charge is to be revenue neutral, but that doesn't mean that determining how to implement this requirement

is simple, either for the utilities or for the Commission. While it is generally not that difficult to determine what portion of the utility's revenue requirement is transmission related, how to carve that out of each customer's rate is not simple. Additionally, setting up this initial unbundled transmission charge is very important because it determines how the "ongoing" changes in FERC-approved transmission rates will be automatically passed through. Currently, for example, most residential electric customers pay a monthly "customer charge" and a rate based upon the kilowatt-hours, or energy, used. However, most transmission rates approved by the FERC are based upon a monthly demand rate. Fairly allocating this demand rate to residential, commercial and industrial customers is a task that requires a great deal of customer data and analysis. Yet, if this allocation is not done correctly, individual customers could see a substantial change in their monthly bills for the same level of energy consumption, even though the total revenue recovered by the utility remains the same.

As an example of how this works, suppose that, for whatever reason, a certain source of state revenue were no longer available, yet the legislature had to recover that revenue from other sources in a manner that required each taxpayer to pay no more or less than they did before. For the purpose of this example, suppose that gasoline taxes were no longer allowed. You can appreciate the difficulty in trying to replace this important source of revenue without changing the "impact" on any citizen or business. This is why the Commission is concerned that a 90-day time limit on the initial phase could hamper its ability to best revise rates in a manner that is revenue neutral to customers, as well as the utility.

Another reason the Commission objects to this proposal is that the initial filing is probably best handled in the context of a rate proceeding. Currently Commission Staff is working with two different electric utilities that wish to implement a separate transmission delivery charge. One utility has indicated that it prefers to determine the charge as part of a future rate filing. This would work well because the design of the transmission charge will be an integral part of the review of annual revenue requirements and the utility's final rate design. However, this legislation would prevent the utility and the Commission from utilizing this

approach to develop an unbundled transmission charge. A normal comprehensive rate review is challenging to complete within the statutory 240-day limit for Commission review. By requiring Commission approval within 90 days for utility transmission charge applications, the parties would not be able to avail themselves of this approach and thereby create unnecessary work and complication for both.

Finally, I would point out that while setting these transmission charges is a difficult process, it is not necessarily a controversial one. There has yet to be an initial filing for the permitted charge, not because of the time for Commission review, but because of the difficulty of the process. As I indicated, Commission Staff is currently working with two separate electric utilities to determine just how to approach this issue. As each utility has a different situation, each requires a different approach to getting the initial charge unbundled in a manner that is fair to both the utility and the customer.

In conclusion, this bill is unneeded and would create complications for utilities, ratepayers and the Commission.

## Citizens' Utility Ratepayer Board

**Board Members:**

Gene Merry, Chair  
A.W. Dirks, Vice-Chair  
Francis X. Thorne, Member  
Nancy Wilkens, Member  
Carol I. Faucher, Member  
David Springe, Consumer Counsel



**State of Kansas**

*Kathleen Sebelius, Governor*

1500 S.W. Arrowhead Road  
Topeka, Kansas 66604-4027  
Phone: (785) 271-3200  
Fax: (785) 271-3116  
<http://curb.kcc.state.ks.us/>

### HOUSE UTILITIES COMMITTEE H.B. 2465

Testimony on Behalf of the Citizens' Utility Ratepayer Board  
By David Springe, Consumer Counsel  
February 21, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2465. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

This bill makes two changes to an existing statute that remove valuable consumer protections and places arbitrary restrictions on the Commission's review authority. This bill seems to be about forcing quick answers. CURB believes it is more important to make sure we find the right answers.

This bill will amend K.S.A 2004 Supp. 66-1237 to require that the Kansas Corporation Commission issue an order in not more than 90 days when any utility files an application pursuant to the statute. CURB believes that requiring the Kansas Corporation Commission issue an order in these types of proceedings within 90 days, regardless of the facts of the case, is arbitrary and not in the best interest of the public. Separating out the appropriate transmission from retail rates is not necessarily an easy process. CURB would like to see these types of applications in conjunction with a rate case, where the utility's full cost structure is in review and rates are being reviewed. The 90 day review restriction contained in this bill would preclude this type of review in conjunction with a rate case, which has a 240 day time limit. In those instances where an application is made outside of a rate case, setting an arbitrary 90 day restriction ignores the potentially complicated nature of these cases, ignores that time constraints can be dictated by what other cases are currently before the Commission, and ignores the fact that we as regulators should be more concerned with getting the rate change right than getting it within a short period of time. CURB believes that this type of artificial time constraint is not good for the public, and if pursued, 90 days is far too short for this type of review.

The bill also makes a fundamental change to the Commission's review authority in Section (b) of the statute. Currently, any time "subsequent" to the utility filing its change in transmission rates pursuant to the statute, if the Commission "determines that all or part of the change did not result from an order described by this subsection, the Commission may require changes in the transmission delivery charge and impose appropriate remedies". This is an appropriate protection for consumers. The utility should not benefit from improper actions, and the Commission should be able to reverse any rate changes and refund any money to consumers that resulted from improper rate changes at any time.

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ATTACHMENT 7



As proposed, the bill will restrict the Commission's review to only 60 days. Again, this is an arbitrary time constraint, and reverses a valuable consumer protection. If the Commission finds on the 61<sup>st</sup> day that consumers have been wrongly overcharged should consumers be out of luck? CURB believes that consumers should always be assured that overcharges will be refunded. CURB does not support this change in the statute.

For the above reasons, CURB opposes this bill, and opposes these changes to the existing statute.

7-2

Testimony on HB 2465 before the  
House Utilities Committee

By

Mark Schreiber, Manager, Government Affairs  
Westar Energy, Topeka, Kansas  
February 21, 2005

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

House Bill 2465 amends K.S.A. 66-1237, which allows a utility to elect to recover its transmission-related costs through a transmission delivery charge. The amendment directs the Kansas Corporation Commission to issue its order pursuant to subsection (a) of K.S.A. 66-1237 not more than 90 days after the utility files its application. Westar Energy opposes this bill.

The 90-day window provided in this bill may be too short of a time period to perform the complicated process of allocating the monthly demand rate among the various customer classes. It could also conflict with other time limits the Commission has to act in response to a utility's rate application. If a utility was to request the determination of a transmission delivery charge be made in the context of a rate proceeding, the Commission may not have adequate time to perform the analysis necessary to allocate the transmission delivery charge to the various customer classes.

Westar Energy believes this bill is unnecessary. We urge the committee to oppose it.

Thank you for opportunity to address you this morning. I will stand for questions at the appropriate time.

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ATTACHMENT 8