

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:15 A.M. on February 19, 2008 in Room 783 of the Docking State Office Building.

All members were present except:

Vaughn Flora-excused
Annie Kuether-excused
Bill Light-excused
Peggy Mast-excused
Judy Morrison-excused
Josh Svaty-excused

Committee staff present:

Mary Galligan, Kansas Legislative Research
Carol Toland, Kansas Legislative Research
Mary Torrence, Revisor's Office
Melissa Doeblin, Revisor's Office
Renaë Hansen, Committee Administrative Assistant

Conferees appearing before the committee:

Larry Holloway, Kansas Corporation Commission
Colin Hansen, Kansas Municipalities
Ron Seber, National Cooperative Refinery Association
Mark Schreiber, Westar Energy
Paul Snider, KCP&L
Dave Springe, CURB

Others attending:

Twenty including the attached list.

Hearing on:

HB 2806- Statewide uniform electricity rates.

Proponents:

There were no proponents.

Opponents:

Larry Holloway, KCC, (Attachment 1), offered testimony in opposition to **HB 2806** noting the complexity of even trying to figure out the formula for deploying this same rate across the state.

Colin Hansen, Kansas Municipalities, (Attachment 2), offered testimony in opposition to **HB 2806**. He noted that increased regulation would be a massive increase of the KCC over the KMU membership.

Mark Schreiber, Westar, (Attachment 3), offered opposing testimony to **HB 2806**.

Paul Snider, KCP&L, (Attachment 4), gave opposing testimony to **HB 2806** stating that this legislation is bad policy.

Dave Springe, CURB, (Attachment 5), offered written testimony in opposition to **HB 2806** noting that rates are a function of timing, and situation.

Written Opponents:

Ron Seber, National Cooperative Refinery Association, (Attachment 6), offered written testimony in opposition to **HB 2806**.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on February 19, 2008 in Room 783 of the Docking State Office Building.

Earnie Kutzley, AARP, (Attachment 7), offered testimony in opposition of **HB 2806**.

Questions were asked and comments made by Representatives: Tom Moxley, Carl Holmes, Forrest Knox, Rob Olson, Tom Sloan, Carl Holmes, and Tom Hawk.

Discussion on:

HB 2892- Rules and regulations for underground crude oil storage.

Representative Rob Olson moved to put HB 2892 on the consent calendar and pass it out favorably, seconded by Representative Richard Proehl.

Discussion ensued with Representatives: Tom Sloan, and Carl Holmes.

Motion passed.

If **HB 2892** is pulled off the consent calendar Representative Richard Proehl will carry it on the floor.

Discussion on:

HB 2698-Consumer Telephone calls; time limitations.

Representative Rob Olson moved to put HB 2698 on the consent calendar and pass it out favorably, seconded by Representative Terry McLachlan.

Discussion ensued with Representatives: Tom Sloan, and Carl Holmes.

The motion and second were withdrawn.

Discussion continued with Representatives: Carl Holmes, Tom Sloan, and Cindy Neighbor.

Cindy Neighbor moved to change HB 2698 page 2, line 16, from 8 p.m. to "9 p.m. central time zone", seconded by Terry McLachlan.

Discussion ensued on the motion with Representatives: Tom Sloan, Carl Holmes, Vern Swanson, Terry McLachlan, and Forrest Knox.

Motion to amend fails.

Representative Tom Sloan moved to add central time at line 16 page 2 after 8 p.m. on HB 2698, seconded by Representative Cindy Neighbor. Motion passed.

Discussion continued with Representative Tom Sloan, Revisor Mary Torrence and Chairman Carl Holmes.

Representative Tom Sloan moved to add a new subsection to HB 2698 using the appropriate words and appropriately placing keeping robo calls from 8:00 a.m. to 8:00 p.m., seconded by Representative Cindy Neighbor.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on February 19, 2008 in Room 783 of the Docking State Office Building.

Discussion continued between: Tom Hawk, Mary Torrence, and Tom Sloan.

Motion to amend carried.

Representative Cindy Neighbor moved to pass out **HB 2698** as amended favorable for passage, seconded by Representative Vern Swanson.

Discussion ensued with Representative: Margaret Long.

Motion carried.

Representative Cindy Neighbor will carry **HB 2698** on the floor.

Discussion on:

HB 2681-Review of regulations and laws with the intent of promoting nuclear industrial development.

HB 2681 was pulled off the consent calendar and it was determined that Representative Forrest Knox will carry the bill on the House floor.

The next meeting is scheduled for February 20, 2008.

Meeting adjourned at 10:40 a.m.



*Kathleen Sebelius, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner*

Before the House Energy and Utilities Committee
Regarding HB 2806
February 19, 2008

Testimony of
Larry Holloway
Kansas Corporation Commission

Thank you, Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations with the Kansas Corporation Commission, and I appreciate the opportunity to be here today to testify for the Commission on HB 2806.

This bill would mandate that all electric utilities in the state of Kansas charge the same rate for the same customer class. At the end of each month each retail electric supplier would report information necessary for the Commission to set the uniform rate that all electric utilities would charge. The electric utilities would bill their customers at that rate and submit all of the collected revenues to the Commission, who would then provide each utility with money based upon the utility's revenue requirement. At least every two years the Commission would conduct an audit of the revenue requirements of utilities that are not subject to jurisdiction by the Commission.

The Commission opposes this bill and has numerous concerns regarding this legislation, a few of these concerns are as follows:

- Charging an average rate for all electric customers in Kansas would drastically increase rates for some while decreasing rates for others. The highest residential rate in Kansas

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in 2006 was about 14 cents per kwh for the City of Arcadia municipal electric utility, and the lowest residential rate was around 4.8 cents per kwh for customers of the City of McPherson. A listing of rates and the changes that would result from averaging is attached.

- Statewide averaging of rates and costs would represent a fundamental change in the regulation of electric utilities. Rates have historically been determined with regard to each individual provider based on that provider's costs and the Courts have recognized that cost causation is a touchstone of regulation. The averaging of rates could interfere with programs intended to provide price signals to customers on the costs of electricity.
- It is not clear what changes in costs would be allowed in the monthly charges. A monthly recovery of costs, combined with the averaging of rates, could remove incentives to keep costs prudent and reasonable.
- The Bill is unclear about the audits that are to be performed on the nonjurisdictional suppliers "to determine the validity of the requirements certified to the commission by governing body." Can the audit look at costs for prudence and reasonableness or it is bound by the governing body's determination? For example, can the audit review a city or electric cooperative's decision to build a generating plant, or enter into a power contract; or even question whether a city's electric revenues can be used to help fund other city operations?
 - Many municipal utilities use revenues from electric customers to fund other city services. If the KCC cannot adjust this out of the overall formula, then ratepayers for utilities across the state would be subsidizing city functions. If the KCC can adjust these costs, the municipals will be required to find other funding sources.
- There would need to be careful analysis of how this would work in conjunction with the various other statutes and rules regarding regulation of electric utilities. Potential conflicts and ambiguities would likely lead to numerous legal challenges and court interpretations.
- Implementing an average rate for each customer class would have numerous complications. Electric utilities have various types of service within a given general customer class. For example, some utilities have a different charge for residential electric customers with hot water heating, etc. Requiring all utilities to adopt similar customer classes would require an unprecedented rate design effort. Many smaller utilities do not use demand meters for commercial and industrial customers, while others use demand meters and have demand charges. This would require a large and expensive effort to replace and relocate electric meters.
- This would greatly change the way customers pay for their electric usage and the rate design for each customer class. Many of the costs that would be recovered each month

are fixed costs, such as investments in a utility's power plants, distribution and transmission lines, etc. These costs do not vary from month to month even though electric usage by customer class does. This creates a problem for different customer classes, especially if their electric usage is minimal for certain months.

- Suppose, for example, it is determined that across the state there is a fixed cost of \$5 million a month that must be recovered from irrigation customers. Each month the variable costs are added to the fixed costs and divided by the usage for those customers to derive the statewide rate. Now suppose that in the month of January, there are only 1,000 kwh used statewide for irrigation customers.
 - Those customers would pay, for the fixed costs alone, \$5 million / 1,000 kwh or \$5,000 per kwh.
- Most large utilities read meters every day of the week. Since the only rates would be a monthly one established by the Commission, it would appear this bill would require all meters to be read simultaneously at the end of the month.
 - It normally takes at least sixty days or longer for utilities to receive all of their actual costs for fuel, etc. The information provided by the utilities could not be calculated and submitted in the following month. There are 118 municipal electric utilities and 25 rural electric cooperatives that Commission does not currently regulate, as well as 3 rural electric cooperatives, 4 investor owned and 1 LLC electric utility where the Commission currently has the authority to set retail rates. The Commission would be required to input cost information from over 150 electric utilities and then calculate the rate for each customer class. Setting the rate each month would be a massive effort that could easily take several months, even with adequate staffing, equipment and a comprehensive uniform submission of information from all parties. This could create the problem of a delay of many months before customers would get their bills for the month already served. Logistically, it is unlikely this could be done in less than 6 months. Customers would then receive their January bill in July and utilities would have to be compensated for the carrying costs. Locating and collecting from customers that have subsequently moved would be among related concerns.
 - The two year audit of the 143 currently unregulated electric utilities would be a massive effort. While the fiscal note will address the costs of implementing this bill, many of these utilities would incur additional costs just to interface with the auditors, to prepare and submit the monthly information, and to revamp their accounting systems to implement their responsibilities under the legislation.
 - The fiscal impact of this legislation is very large. Without some revision of other statutes it is not clear the KCC will be able to recover its costs from any except its regulated utilities, even though a large amount of the costs will be due to audits on currently unregulated electric utilities. If the KCC can assess these unregulated entities the costs associated with an audit every two years could be very high for many small municipal electric utilities and rural electric cooperatives.

Kansas Retail Electric Suppliers Revenue per KWH and Rate Effects of HB 2806

Number of Kansas Residential Electric Customers with a Rate Increase under HB 2806

800,895

Number of Kansas Residential Electric Customers with a Rate Decrease under HB 2806

402,888

Residential Customers Information	Rate in Cents/kwh
Kansas Average	8.25
National Average	10.34
Nebraska Average	7.41
Missouri Average	7.44
Kansas Average	8.85
Oklahoma Average	8.55
Arkansas Average	8.85
Colorado Average	9.02
Iowa Average	9.63
Texas Average	12.86

Kansas Utility	Average Residential Rate in Cents/kwh	Rate Increase (Decrease) under HB 2806
Alfalfa Electric Coop, Inc	9.70	-17.51%
Aquila (now MKEC)	10.64	-28.99%
Ark Valley Elec Coop Assn, Inc	13.19	-59.86%
Bluestem Electric Coop Inc	12.59	-52.61%
Brown-Atchison E C A Inc	8.62	-4.49%
Butler Rural El Coop Assn, Inc	11.14	-35.03%
Caney Valley El Coop Assn, Inc	12.87	-55.93%
City of Alma	8.90	-7.83%
City of Altamont	8.86	-7.33%
City of Anthony	10.37	-25.64%
City of Arcadia	14.04	-70.11%
City of Arma	12.45	-50.92%
City of Ashland	11.32	-37.22%
City of Attica	10.12	-22.60%
City of Augusta	11.49	-39.19%
City of Axtell	7.41	10.26%
City of Baldwin City	12.21	-47.94%
City of Belleville	12.60	-52.72%
City of Beloit	10.03	-21.58%
City of Blue Mound	12.20	-47.90%
City of Bronson	8.28	-0.36%
City of Burlingame	8.58	-4.02%
City of Burlington	10.20	-23.60%
City of Cawker City	8.76	-6.19%
City of Centralia	8.77	-6.30%
City of Chanute	9.85	-19.39%
City of Chapman	9.77	-18.38%
City of Chetopa	11.02	-33.58%
City of Cimarron	11.52	-39.64%
City of Clay Center	8.90	-7.80%
City of Coffeyville	9.83	-19.16%
City of Colby	8.92	-8.15%
City of Dighton	10.33	-25.16%
City of Ellinwood	10.77	-30.56%
City of Elsmore	9.27	-12.37%
City of Elwood	10.13	-22.78%
City of Enterprise	9.00	-9.06%
City of Eudora	9.76	-18.28%
City of Fredonia	9.97	-20.84%
City of Galva	8.34	-1.12%
City of Garden City	9.83	-19.18%
City of Gardner	9.65	-16.89%
City of Garnett	9.29	-12.59%
City of Glasco	8.55	-3.58%

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City of Glen Elder	9.59	-16.16%
City of Goodland	10.97	-32.95%
City of Greensburg	12.16	-47.33%
City of Haven	9.33	-13.07%
City of Herington	12.19	-47.75%
City of Herndon	9.21	-11.59%
City of Hill City	10.33	-25.15%
City of Hillsboro	9.73	-17.87%
City of Hoisington	10.83	-31.23%
City of Holton	8.78	-6.43%
City of Holyrood	10.57	-28.08%
City of Horton	9.56	-15.83%
City of Hugoton	10.29	-24.74%
City of Iola	9.48	-14.91%
City of Isabel	8.00	3.05%
City of Iuka	11.50	-39.35%
City of Jetmore	10.95	-32.66%
City of Johnson	12.46	-50.97%
City of Kansas City	9.63	-16.65%
City of Kiowa	10.22	-23.79%
City of La Crosse	10.91	-32.27%
City of La Harpe	8.28	-0.39%
City of Lakin	11.93	-44.51%
City of Larned	10.68	-29.38%
City of Lincoln Center	10.88	-31.83%
City of Lindsborg	8.12	1.60%
City of Lucas	10.53	-27.65%
City of Luray	8.76	-6.14%
City of Marion	10.01	-21.26%
City of Meade	10.47	-26.87%
City of Minneapolis	8.80	-6.67%
City of Montezuma	11.85	-43.66%
City of Moran	9.05	-9.69%
City of Morrill	9.17	-11.08%
City of Moundridge	8.39	-1.73%
City of Mulberry	10.69	-29.50%
City of Mulvane	10.26	-24.31%
City of Muscotah	10.06	-21.89%
City of Neodesha	10.08	-22.14%
City of Norton	12.31	-49.15%
City of Oakley	11.74	-42.25%
City of Oberlin	12.09	-46.46%
City of Osage City	10.26	-24.34%
City of Osborne	11.74	-42.22%
City of Oxford	9.60	-16.39%
City of Pomona	9.37	-13.57%
City of Pratt	14.14	-71.41%
City of Prescott	9.48	-14.88%

City of Radium	13.10	-58.69%
City of Robinson	9.71	-17.72%
City of Russell	10.81	-30.97%
City of Sabetha	8.04	2.56%
City of Savonburg	10.34	-25.36%
City of Scranton	10.65	-29.04%
City of Seneca	7.19	12.92%
City of Seward	9.70	-17.49%
City of Sharon Springs	12.04	-45.89%
City of St Francis	11.43	-38.56%
City of St Marys	10.04	-21.68%
City of Stafford	8.76	-6.16%
City of Sterling	11.16	-35.30%
City of Stockton	12.93	-56.72%
City of Toronto	9.59	-16.22%
City of Troy	8.96	-8.54%
City of Udall	8.11	1.77%
City of Vermillion	10.95	-32.70%
City of Wamego	9.30	-12.65%
City of Waterville	9.07	-9.94%
City of Wathena	10.34	-25.27%
City of Wellington	10.56	-28.00%
City of Winfield	10.77	-30.54%
CMS Electric Coop Inc	12.05	-46.07%
D S & O Rural E C A, Inc	10.76	-30.39%
Doniphan Elec Coop Assn, Inc	9.00	-9.09%
Empire District Electric Co	9.04	-9.59%
Erie City of	10.19	-23.52%
Flint Hills Rural E C A, Inc	12.40	-50.29%
Girard City of	12.76	-54.68%
Heartland Rural Elec Coop, Inc	12.12	-46.87%
Kansas City Power & Light Co	6.91	16.21%
Kansas Gas & Electric Co	7.69	6.79%
Kaw Valley Electric Coop Inc	8.80	-6.66%
Kingman City of	12.96	-57.03%
Lane-Scott Electric Coop, Inc	10.25	-24.17%
Leavenworth-Jefferson E C, Inc	12.34	-49.52%
Lyon-Coffey Electric Coop, Inc	11.71	-41.94%
Mankato City of	7.75	6.08%
McPherson City of	4.83	41.53%
Midwest Energy Inc	8.62	-4.45%
Mount Hope City of	10.67	-29.25%
Nemaha-Marshall E C A, Inc	8.53	-3.31%
Ninnescah Rural E C A Inc	13.16	-59.51%
Osawatomie City of	11.51	-39.45%
Ottawa City of	9.52	-15.39%
Pioneer Electric Coop, Inc	9.47	-14.82%
Prairie Land Electric Coop Inc	10.80	-30.85%

Radiant Electric Coop, Inc	10.82	-31.17%
Rolling Hills Electric Coop	12.72	-54.11%
Sedgwick Cnty El Coop Assn Inc	9.91	-20.13%
Southwestern Public Service Co	8.38	-1.58%
St John City of	9.59	-16.27%
Sumner-Cowley Elec Coop, Inc	13.51	-63.76%
Town of Summerfield	7.80	5.49%
Tri-County Electric Coop, Inc	8.88	-7.64%
Twin Valley Electric Coop Inc	10.90	-32.03%
Victory Electric Coop Assn Inc	11.19	-35.64%
Washington City of	9.71	-17.67%
Westar Energy Inc	7.38	10.56%
Western Coop Electric Assn Inc	10.34	-25.30%
Wheatland Electric Coop, Inc	11.06	-34.06%
Kansas Average	8.25	



kansas municipal utilities

Testimony Provided the
House Energy & Utilities Committee
February 19, 2008

Colin Hansen, Executive Director
Kansas Municipal Utilities

House Bill 2806 - Statewide Uniform Electricity Rates

Chairman Holmes and Members of the Committee:

On behalf of Kansas Municipal Utilities (KMU), I appreciate the opportunity to provide testimony to the committee in opposition to House Bill 2806.

Kansas Municipal Utilities (KMU) is the statewide association that represents the interests of 170 municipal electric, natural gas, water and wastewater utilities. In Kansas, 119 cities own and operate a municipal electric utility. These public power systems provide approximately 18% of the electricity to retail consumers in Kansas.

Like our members themselves, the retail rates of municipal electric utilities vary widely across the state. Our members include utilities with both the lowest rates in the state as well as the highest rates in the state. Differences in wholesale power arrangements, operational philosophy, load factor, investment in local generation, maintenance of the distribution grid, customer density and contributions to the community each have an affect on the overall rates of the utility. HB 2806 would disregard all of these local differences in setting a statewide rate.

Increased Regulation

HB 2806 would require the state corporation to conduct an audit of each municipal utility to "determine the validity" of its reported revenue requirements every two years. In addition to being infeasible for commission staff to take on the 119 audits required just for municipal utility compliance, the legislation would be a massive increase in Kansas Corporation Commission (KCC) regulation over the KMU membership. By requiring a KCC audit to determine the validity of the revenue requirements of each utility, the commission is essentially granted jurisdiction over what a municipal utility can and cannot include in its electric rates. We believe this would be a tremendous setback in local control and home rule in Kansas.

Costs of Compliance

The time and resources required for municipal utility to comply with a biennial revenue requirements audit would be significant, particularly if an audit compared in scope to a typical KCC rate filing. Compliance would be especially difficult for small systems. The median size of a municipal electric utility in Kansas is 882 customers. All but eight public power systems in Kansas serve less than 5,000 customers.

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Disincentives for Efficiency

For municipal utilities, the customer of the public power system is also the owner. As such, the objective of the municipal utility is to provide the lowest-cost, most reliable electricity possible while also reflecting the overall goals and priorities of the community. Some utilities have been more successful than others in achieving the standard of low cost and reliable power, even within the KMU membership. We believe that HB 2806 would remove the incentive that a utility or community might have to keep electricity rates low for its consumers. Losing this incentive will, in turn, drive up the electricity costs of all Kansas consumers.

McPherson Example

The impact of a statewide electric rate would be extreme, particularly on low-cost providers in the state. Perhaps the most compelling example of this might be the city of McPherson. Having made timely and prudent investments in its utility over the past century and working cooperatively with wholesale power provider Westar Energy, McPherson Board of Public Utilities (BPU) lays claim to the lowest electricity rate in the state and one of the lowest in the nation.

Using data from the Department of Energy's Energy Information Administration for calendar year 2005, we have roughly estimated the following impact on McPherson BPU residential customers:

Residential & Rural Customer Class

Average Kansas Residential Rate:	7.9 cents per kilowatt-hour (kWh)
McPherson Residential Rate:	4.6 cents per kWh
McPherson Residential Sales:	87,178,000 kWh per year
Cost to McPherson BPU Customers:	\$2.9 million per year

Industrial Customer Class

Average Kansas Industrial Rate:	4.8 cents per kilowatt-hour (kWh)
McPherson Industrial Rate:	3.2 cents per kWh
McPherson Industrial Sales:	522,653,000 kWh per year
Cost to McPherson Industries:	\$8.4 million per year

In McPherson and other communities with historically low electric rates, the imposition of a statewide electricity rate would do irreparable harm to the local economic base and take away the local competitive advantage that it has strived to develop.

Conclusion

KMU believes that HB 2806 would cause a huge cost shift from community to community in the state, creating an inefficient system of winners and losers that has nothing to do with the characteristics of the community or the effective operation of its utility. Some of our members would benefit greatly. Others would pay dearly. We urge the committee to recognize the dramatic consequences of this legislation and its potential impact on individuals, businesses, communities and each of the electric utilities across the entire state. Thank you for the opportunity to provide testimony in opposition to House Bill 2806.



MARK A. SCHREIBER
Director, Government Affairs

**Testimony of Mark Schreiber
Director Government Affairs, Westar Energy
Before the House Energy and Utilities Committee
On HB 2806
February 19, 2008**

Good morning Chairman Holmes and members of the committee. Thank you for the opportunity to provide testimony on HB 2806. Westar Energy opposes the bill because Kansas electric utility regulation has historically been based on cost of service. House Bill 2806 would erase the basis for years of utility regulation and replace it with an unworkable process. To the best of our knowledge, no state or public utility commission has ever set rates as proposed under this bill. In fact, we believe that every public utility commission that regulates utility rates sets rates according to each utility's unique cost of service.

The system of ratemaking proposed by this bill would include investor-owned utilities, electric cooperatives and municipal utilities. In Section 1(c) the bill proposes to have each utility submit to the KCC its revenue requirements and approved rate of return (in the case of a KCC jurisdictional utility). Then the KCC sets a uniform rate across the state to allow each utility to recover that revenue requirement. Westar's revenue requirement is substantially different than the city of Winfield or Kaw Valley Electric Cooperative, so calculating a uniform rate that allows for each to meet its revenue requirement would be impossible. As an example, if I asked each of you to give me a list of your monthly expenses and your monthly income, I would then need to spread that income to everyone so that no one receives an unequal share yet still allow each of you to pay your bills.

Westar believes the current cost of service basis for ratemaking is appropriate. We would urge the committee to oppose this bill.

Thank you again for the opportunity to testify. I will stand for questions at the appropriate time.

**Testimony of Paul Snider
Before the House Energy and Utilities Committee
In Opposition to House Bill 2682
February 19, 2008**

As an employee and Kansas customer of Kansas City Power & Light, I stand before you in opposition to House Bill 2682. This bill will unnecessarily increase rates for KCP&L customers, without providing any benefits.

HB 2682 threatens to undermine decades of careful utility planning that has provided affordable rates for our customers.

If rates are ultimately to be averaged statewide, what incentive does a utility have to control costs and make sound investments?

While it's certain rates tend to be lower in Eastern and Central Kansas, customers in other areas of the state enjoy a myriad of other benefits, such as a lower overall cost of living.

This bill raises serious and complex legal and policy issues and should not be acted upon.

I urge you to oppose HB 2682.

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Paul Snider – KCP&L
Manager, Kansas Government Affairs
816-556-2111; paul.snider@kcpl.com

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ATTACHMENT 4

Citizens' Utility Ratepayer Board

Board Members:

Gene Merry, Chair
Randy Brown, Vice-Chair
Carol I. Faucher, Member
Laura L. McClure, Member
A.W. Dirks, Member



State of Kansas

Kathleen Sebelius, Governor

David Springe, Consumer Counsel
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Phone: (785) 271-3200
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HOUSE UTILITIES COMMITTEE H.B. 2806

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 19, 2008

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2806. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

Regulated utility rates are set by the state corporation commission based on the utility's underlying cost of providing service to its customers. Rates for individual classes of customers are a function of the cost allocation parameters specific to the utility. The rates of each utility will differ due to the historic mix of generation resources (coal, nuclear, gas and wind), vintage of the resources (older, depreciated plant verses newer, un-depreciated plant), vintage of the fuel contracts for the resources, the nature of the territory served (rural verses urban) and the load mix and load factor of the customers in general (residential verses industrial). There are many factors that go into rate making that explain the differences in rates between utilities and between customer classes.

CURB has several concerns about how HB 2806 will change the way utility rates are set in Kansas.

First, utility rates will no longer be based on the underlying cost of the utility serving the customer. To achieve the "uniform rate for electrical service" required in HB 2608 certain customers will pay a rate above the level determined by the Commission to be just and reasonable for that utility, while the customers of another utility will pay a rate below the level determined by the commission to be just and reasonable for that utility. Utility customers of one utility will by definition subsidize the customers of another utility. Rates will no longer be based on the mix of resources and other variables that make up the cost of service of the individual utility as discussed above. CURB does not believe this is an appropriate regulatory or legal policy.

Second, the bill appears to include all municipal utility customers and cooperative customers as part of the uniform rate. A majority of these customers are not currently regulated by the commission. Even if it were politically possible to bring these unregulated customers within the jurisdiction of the commission for rate making purposes, the bill requires that "at least every two years the state corporation commission shall conduct an audit of the revenue

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ATTACHMENT 5-1

requirements of each retail electric supplier the rate of which are not regulated by the commission to determine the validity of the requirements certified to the commission by the governing body of the supplier". This would be an impossible schedule to meet given the number of unregulated entities that would be subject to this audit. Further, unregulated cooperatives and municipal governments may not have been exposed to the current regulatory process, likely don't keep accounting records in a manner consistent with that used in the regulatory process, and are free to include costs in utility rates that might not normally be allowed in utility rates through a commission audit. All of these issues would make the audit process necessary to verify the accuracy of the uniform rate across these entities very difficult.

Third, the bill requires the state corporation commission to establish a method for collecting and redistributing monthly moneys collected by the retail electric suppliers pursuant to the statewide uniform rate. The bill is silent about how this method should be implemented. For example, rates are usually based on some level of fixed customer charge, some level of volumetric charge, some level of fuel charge and then other charges that may recover transmission costs, property taxes, environmental control costs or other miscellaneous charges. Equalizing all of these costs across all utilities will be difficult at best. Consider the fact that each utility has a different fuel cost every month, which will depend on the utility's resource mix, contract mix, market fuel prices, dispatch order, transmission constraints and purchases and sales of power in the market and you start getting the measure of the complexity involved in setting a monthly uniform rate. Setting a rate that is uniform for each customer in the state on a monthly basis, while insuring that each utility receives revenue equal to its revenue requirement and allowed return where appropriate will be a massively complex undertaking and will necessarily require a large regulatory body to administer.

Given the above, CURB does not support this bill. It is true that at any given time one utility's rates to customers may be higher than a neighboring utility's rates. However that does not mean that either utility's rates are inappropriate for its customers given the underlying costs to that utility. Nor does this mean that regulatory scheme envisioned in this bill is an appropriate approach to setting rates in Kansas.

NATIONAL COOPERATIVE REFINERY ASSOCIATION



February 15, 2008

Testimony re: HB 2806 - AN ACT concerning electric rates; providing for statewide uniform rates for retail electric customers by customer class.

Mr. Chairman, Members of the Committee:

NCRA would like to express appreciation to this Committee for listening to our concerns regarding HB 2806, which **we strongly oppose**.

Oil production and oil refining have been a major piece of the Kansas economy for many years. In 1990, there were eight operating petroleum refineries in Kansas. Today there are three operating refineries. NCRA is typical of the three remaining refineries in Kansas. We employ about 600 people and have an annual payroll in excess of \$44 million. We process about 100,000 input barrels per day and sell the petroleum products both locally and regionally.

Our McPherson refinery uses approximately 26,000,000 KWH of electricity each month. Our monthly electrical bill is typically about \$900,000. We are a large user of electric power. Competitively priced electricity helps NCRA maintain our low cost position in the transportation fuels marketplace. The McPherson Board of Public Utilities (BPU) has provided NCRA with reliable power for many years. BPU is well managed and efficient. We do not see the logic in raising the electric rates of the most efficient Kansas electricity providers in order to subsidize the less efficient operations of other utilities. We urge this committee to support efficient operations with a **vote against HB 2806**.

Hundreds of refinery expansion projects have been announced around the globe. Market forces will encourage refinery expansions. NCRA believes the Kansas legislature has encouraged refinery expansion here in the state. Refinery expansion investments are huge and those investments will occur where investors believe they will reap the best returns. Kansas' access to crude oil, excellent work force and existing refinery infrastructure - **along with competitive utility rates** - will make Kansas a prime target for investor dollars.

HB 2806 penalizes efficient communities and rewards inefficiency. **Please vote against the equalization of electric rates in Kansas.**

Thank you very much for permitting NCRA to submit this testimony.

HOUSE ENERGY AND UTILITIES

DATE: 2/19/2008

ATTACHMENT 6



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February 16, 2008

Representative Carl Holmes
Chair, House Energy and Utilities Committee

HB 2806

Good morning Chairman Holmes and members of the House Energy and Utilities Committee. My name is Ernie Kutzley and I am the Advocacy Director for AARP Kansas. AARP represents the views of our nearly 369,000 members in the state of Kansas. Thank you for allowing us to present written testimony in opposition to HB 2806

HB 2806 would:

- Require that every utility in the state charge exactly the same rate to each customer class. So where today rates are different between KCP&L and a cooperative, after this bill, they would be the same.
- Require a shifting of revenues between companies—if KCPL has to cut its rates to achieve the uniform rate, it would essentially then get revenues from customers of other utilities in order to cover its costs. And customers who see their rates only in order to make the rates uniform and share revenue with the companies now charging below cost.
- Require the Kansas Corporation Commission (KCC) to insure that all the money is collected and redistributed properly and all the companies are covering their costs.
- Create a giant new administrative burden on the KCC that can be expected to be time consuming, costly and subject to all kinds of error.

We believe that HB 2806 is bad for consumers because they will not be paying just and reasonable rates; for some rates will increase for no reason other than to lower rates elsewhere.

Therefore, AARP Kansas respectfully requests you oppose HB 2806.

Thank you.
Ernie Kutzley