

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on February 20, 2008 in Room 526-S of the Capitol.

Committee members absent: Senator Jay Scott Emler- excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Senator Roger Reitz
Stephen Weatherford, President, Kansas Housing Resources Corporation
Paul Johnson, Kansas Catholic Conference
Ken Frahm, Kansas Energy Council
Dave Springe, CURB
Senator Roger Pine
Ben Myers, Tonganoxie
John Flower, Basehor
James P. Washington

Others in attendance: See attached list

Vice Chair opened the hearing on:

SB 580 - Establishing the weatherization assistance program account of the state housing trust fund, providing annual transfer from state general fund

Proponents

Stephen R. Weatherford, president, Kansas Housing Resources Corporation, explained the purpose of the weatherization program which KHRC administers and its long term program which addresses energy loss in homes and provides home improvements that increase energy efficiency. He noted the program is funded entirely with grants from the US Department of Energy and Low-Income Energy Assistance Program. **SB 580** would provide sorely-needed dependable funding. (Attachment 1)

Senator Roger Reitz noted **SB 580** would provide weatherization grants to low income home owners to increase housing energy efficiency. A summary of the state funding was prepared by Kansas Energy Council and attached to his testimony. (Attachment 2)

Paul Johnson, Kansas Catholic Conference, expressed hope that passage of **SB 580** would provide state funding on a regular basis for weatherization services. He felt that accountability is vital and an annual report to the Senate Utilities and House Energy and Utilities Committees should be required for the next three years. (Attachment 3)

Ken Frahm, Co-Chair, Kansas Energy Council, stated KEC supports the establishment of annual state funding for the Kansas Weatherization Assistance Program. The Council voted unanimously to include this recommendation for \$2 million in annual State funding in its Kansas Energy Plan 2008. He encouraged support of **SB 580** to: (1) promote energy conservation and efficiency statewide; (2) improve the comfort and safety of homes occupied by low-income Kansans; (3) reduce utility bills for more low-income Kansans; and (4) provide improved affordable stock. (Attachment 4)

Written testimony by David Springe, Citizens' Utility Ratepayer Board (Attachment 5)

Tom Thompson, Sierra Club (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on February 20, 2008 in Room 526-S of the Capitol.

Committee questioned how high priority needs were targeted for the funds; distribution of grants; and whether the \$2 million was in the state budget for 2008.

Chair closed the hearing on **SB 580**.

Chair opened the hearing on

SB 555 - Notice for customers of certain utilities of proposed rate increases by such utilities, CURB intervention in such rate increase proceedings subject to deadline.

Proponents

Senator Roger Pine provided a balloon amendment to **SB 555** for discussion. The Chair indicated no action would be taken on the proposed amendments at this hearing. (Attachment 7)

John Flower of Bonner Springs, favored **SB 555** regarding the notification of patrons and others when utilities apply for a rate change. Two issues of concern were: (1) extension of time of notification to customers of impending rate cases, and (2) KCC's oversight of water rate cases and how advanced notification can make a difference. He supplied detailed information on how the request for a rate increase by Suburban Water System was handled by KCC. (Attachment 8)

James Washington of Basehor, hopes that **SB 555** becomes law as this is a step in securing the rights of the people. He also provided details on the Suburban Water System rate increase hearing held by KCC. (Attachment 9)

Ben R. Myers of Tonganoxie, spoke briefly on steps he had taken in the rate increase hearing by Suburban Water System. He provided copy of a letter he had sent to KCC. (Attachment 10)

Neutral

David Springe, CURB, had provided testimony on **SB 555** prior to seeing the amendments offered in the balloon. (Attachment 11)

Chair requested those testifying on **SB 555** provide written comments on the proposed **SB 555** balloon for consideration by the committee at a future meeting.

Hearing on **SB 555** was left open.

KCC provided the committee with information requested at a prior meeting - a list of price deregulated exchanges and competitive exchanges. (Attachment 12)

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 12

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 20, 2008

Name	Representing
Kyri Prosper	Hearney & Associates
Walla Lee	KMLA
Stacy Allen	KRITA
Dave Holhaus	KEC
SCOTT SCHNEIDER	COX
Gary Allsop	KS Housing
DAN JACOBSEN	AT&T
Aaron Cottler	ATT
Jeanette Mathias	AARP
Frank R. Carpenter	ARRP
Mark Schreiber	Westar
TOM DAY	KCC
Steve Johnson	Kansas Gas Service
Ben R. Myers	Rural Water Line Patron
Lynja Spencer	Water District Patron

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 20, 2008

Name	Representing
Liz Brosius	KS Energy Council
Al Dorsey	KS Housing Resources Corp.
Ryan Vincent	KHRC
Sam Bensch	ICHRE
Ben Myers	Patrons Suburban Water
Lynne Spencer	Suburban Water Patrons
JOHN E. FLOWER	SEWF
James P. Washington	Self & Utility Ratepayers
Marie A Taylor	self & AARP
Ken Frantz	KS Energy Council
Dina Fisk	Verizon
Steve Weatherford	KDFA / KHRC
Mike Murray	Emberg
JIM BARTLING	ATMOS ENERGY
Scott Heider	Atmos Energy

**TESTIMONY TO SENATE UTILITIES COMMITTEE
REGARDING SENATE BILL NO. 580**

**Stephen R. Weatherford
President, Kansas Finance Development Authority
President, Kansas Housing Resources Corporation**

February 20, 2008

Chairman Emler and Honorable Members of the Committee, in this age of rising energy costs and growing environmental concerns, I am pleased to address Senate Bill No. 580 (Bill), which offers a sensible approach to addressing some of these concerns.

Kansas Housing Resources Corporation (KHRC) administers the successful Kansas Weatherization Assistance Program (Weatherization Program) which provides home improvements that increase energy efficiency in income-eligible households throughout our state. Unlike utility payment assistance programs which only address the short term need, the Weatherization Program identifies the cause of energy loss and eliminates the problem for the long term.

Our weatherization agencies use the latest technology to locate energy loss in homes, whether through insufficient insulation, leaky seals, or obsolete furnaces. The Program then addresses that need through energy efficient improvements and collects data on energy savings captured from those improvements.

During the 2006 grant year which runs from April through March, weatherization providers replaced 453 dangerous furnaces and served 1,725 households, or nearly 4,000 Kansas residents. Weatherization services saved approximately \$325 per household in annual energy savings. Weatherization improvements are targeted to be no more than \$3,000 per home including, any furnace replacements necessitated by health and safety issues. The weatherization services result in an average payback of less than ten years.

Senate Utilities Committee
February 20, 2008
Attachment 1-1

Final numbers for the 2007 grant year are still out, because weatherization grants do not end until March 31st and about a third of our production is completed in the last three months. However, we can report that our providers have weatherized 1,118 homes so far and are on track to finish a record 1,876 homes by the end of the grant year. As of today, we've replaced 84 dangerous furnaces and saved approximately \$351 per household in annual energy savings. The Program is a win for homeowner, a win for the taxpayer, and a win for the environment.

We're proud to report that the Kansas Weatherization Assistance Program is one of the most successful weatherization programs in the country. Utilizing a portion of our Department of Energy grant, we provide funding to Kansas State University, making us one of the first states to fund training for weatherization inspectors in building science, combustion appliance testing and home energy audits through. We're also one of the first to develop, implement and utilize a web-based management information system for local and state agency reporting use.

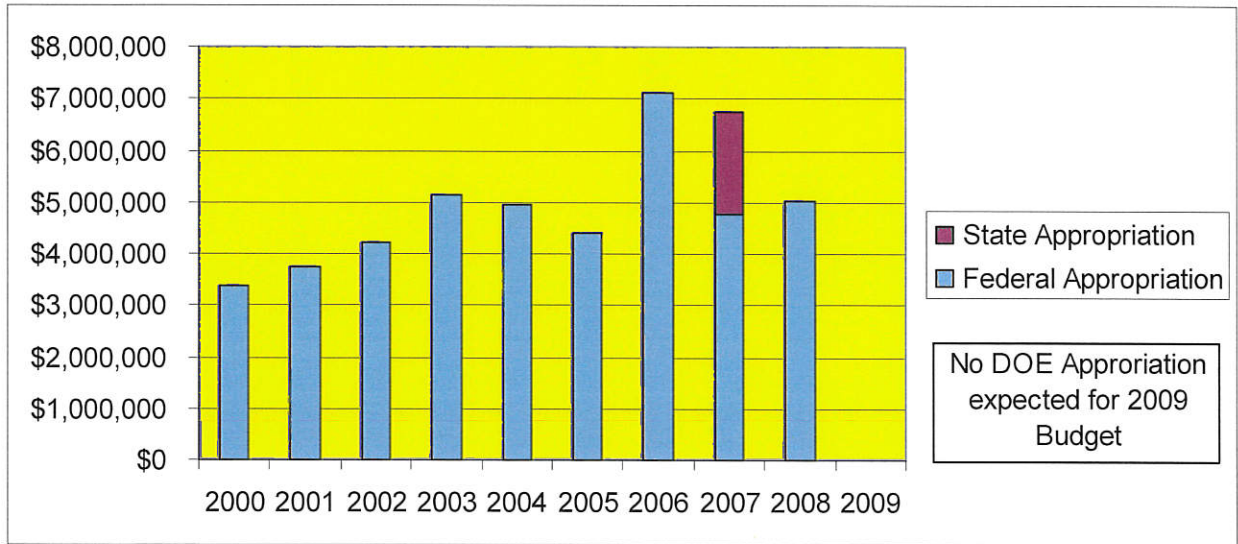
Kansas Weatherization Program staff have been involved with two national level events within the past three years. This past December, KHRC's Deputy Director Norma Phillips received the 2007 National Department of Energy Recognition Award. Al Dorsey, Director of KHRC's Housing with Supportive Services Division, serves on a DOE national level committee and as Vice-President of the National Association of State Community Association Programs

Other than a 2006 Kansas Legislative Appropriation, the Program has been entirely funded with grants from the U.S. Department of Energy and Low-Income Energy Assistance Program. Despite the overwhelming success of the Weatherization Program, substantial cuts in Federal funding put its continued success at risk. Development of private sector capacity for weatherization has been one of the long term challenges of the program. As you can see from the provided graph, federal funding for weatherization is inconsistent. Although federal funding for 2008 is up by \$250,000, overall the state program will have \$1.75 million less than in 2007 due to the loss of state appropriation. Further, initial reports suggest that federal funding of the program is likely to decrease dramatically, or perhaps be eliminated from the 2009 Budget.

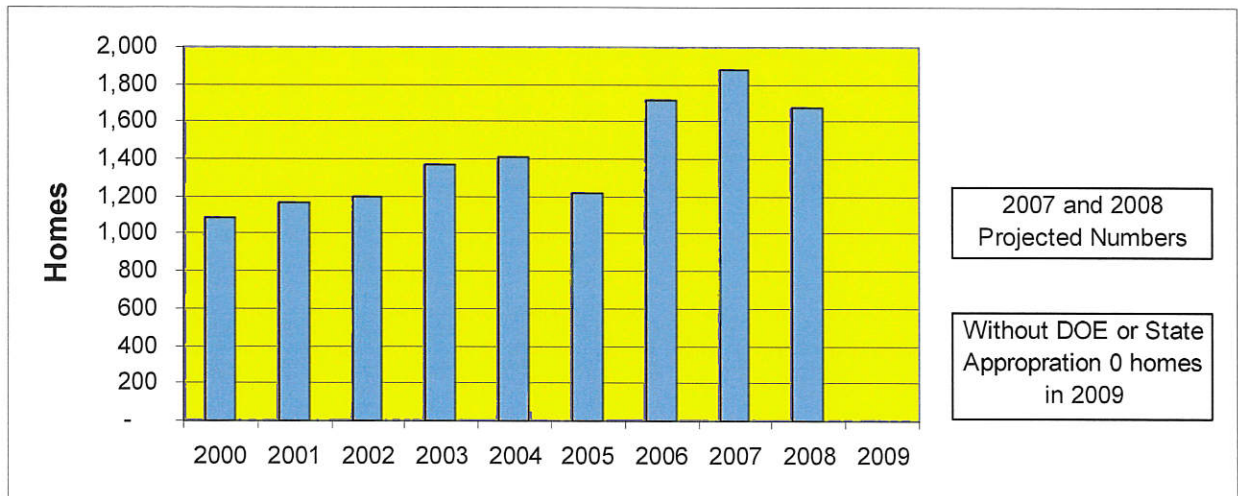
This Bill provides that sorely-needed dependable and consistent funding. I encourage your consideration for this Bill, which provides a sensible long-term approach to helping Kansas families. I would welcome any questions you may have.

Kansas Housing Resources Corporation Weatherization Activity 2000-2009

Overall Appropriation 2000-2009



Weatherized Homes 2000 - 2009



1-4

ROGER REITZ

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TOPEKA

SENATE

COMMITTEE ASSIGNMENTS

MEMBER: COMMERCE
 ELECTIONS AND LOCAL GOVERNMENT
 FEDERAL AND STATE AFFAIRS
 UTILITIES

Today we address SB 580 which establishes a weatherization assistance program within the state Housing Trust Fund. This entreaty stems from an initiative by Ken Frahm of the Kansas Energy Council who spoke to us earlier this session. The bill supports energy conservation which is equal in importance to energy generation.

This program would provide weatherization grants to low income home owners to increase housing energy efficiency. Traditionally, the Weatherization Assistance Program has been funded by federal funds. Last year the state appropriated 2 million dollars in state general funds to supplement the federal funding. This additional financial support increased the number of homes weatherized by 30%. Weatherization increases residential energy efficiency by up to 25%. In 2006 a total of 1726 homes were weatherized and 453 dangerous furnaces were replaced.

The down side of this measure is the cost of 2 million dollars from the general fund. It is the energy committee's call as to whether this weatherization initiative is an appropriate response to our energy conservation commitment.

Roger P. Reitz M.D.
 Senator District 22

Senate Utilities Committee
 February 20, 2008
 Attachment 2-1

SB 580 – State funding for Weatherization Assistance Program

After spending much of 2007 considering policies and programs to promote energy conservation and efficiency in Kansas, the Kansas Energy Council (KEC) unanimously adopted a recommendation to provide \$2 million in annual State funding to expand weatherization assistance to low-income households. This assistance is currently provided through the Kansas Weatherization Assistance Program (WAP), operated by the Kansas Housing Resources Corporation.

The average house in Kansas is over 40 years old, and homes of many low-income Kansans are much older. Most homes occupied by low-income families (many of whom are elderly or disabled) lack adequate insulation and have older, less efficient and sometimes dangerous mechanical systems. In 2006, a total of 1,726 homes were weatherized and 453 dangerous furnaces were replaced, increasing overall energy efficiency by as much as 25%.

Traditionally, WAP has been funded solely through federal funds. In Fiscal Year 2007, the State of Kansas appropriated \$2 million in state general funds to supplement the program's funding (\$2,264,099 from U.S. DOE; \$2,501,399 from LIEAP). The additional State funding allowed WAP to increase the number of homes weatherized by about 30 percent.

Predictable State funding would allow the Weatherization Assistance Program to expand on the good job it is currently doing by reaching more low-income households and improving program performance throughout the state. In addition to improving the comfort and safety of these households, the program increases awareness of energy conservation statewide.

**KANSAS SENATE UTILITIES COMMITTEE
PAUL JOHNSON – KANSAS CATHOLIC CONFERENCE
FEBRUARY 20, 2008
PROPONENT FOR SENATE BILL 580**

Thank you for this opportunity to testify in favor of SB 580. The Kansas Catholic Conference has been a long time supporter of the Kansas Weatherization Assistance Program (WAP). The hope now is that state funding will become a regular, dedicated part of the revenue stream for weatherization services.

The annual battle over state funding to WAP will be a never-ending process as we experienced with getting \$2 million of SGF two years ago but not last year. When the formula for distributing lottery revenues is re-written or just expanded, \$2 million of that revenue stream should be dedicated to WAP automatically with further supplemental funding considered when available. In the President's proposed FY 2009 federal budget, the Department of Energy's weatherization program was zeroed out. This would cost Kansas at least \$2 million a year. One other funding consideration is that 15% of SRS's Low Income Home Energy Assistance Program basic block grant is sent to the weatherization program but that requirement does not apply to any supplemental energy assistance funding.

Accountability is vital for this program. An annual report to the Kansas Senate Utilities Committee and the House Energy & Utilities Committee should be required for the next three years. This report would detail the number of homes weatherized by each sub-grantee of WAP and whether any waiting lists by county may now exist. This report would document which weatherized homes were owner-occupied versus rental. This report would show whether some emergency repairs – such as fixing the roof – were required and how those repairs were funded? If a furnace were replaced in a rental unit by WAP, was there a cost share arrangement with the landlord to stretch the limited funds?

The application for SRS's Low Income Home Energy Assistance Program (LIHEAP) has a waiver so that utility bill information for this LIHEAP applicant can be shared with the weatherization sub-grantees. In the WAP report to the legislative committees, it should be noted whether actual utility usage was factored into the priority setting for which homes were weatherized so that those homes with the higher utility bills are served. This utility bill information is also necessary to document actual utility savings of the homes weatherized.

Kansas has been last of all 50 states in funding conservation programs. SB 580 is one important step in expanding weatherization services - with a dedicated revenue source - to at least 3,000 homes a year statewide.

Testimony in Support of SB 580
Senate Utilities Committee, February 20, 2008
Ken Frahm, Kansas Energy Council Co-Chair

Chairman Emler and members of the committee, thank you for this opportunity to testify on behalf of SB 580. The Kansas Energy Council strongly supports the establishment of annual state funding for the Kansas Weatherization Assistance Program, operated by the Kansas Housing Resources Corporation (KHRC). In fact, after having several months to consider and hear public comment on this proposal, the Council voted unanimously to include this recommendation for \$2 million in annual State funding in its *Kansas Energy Plan 2008*.

The average house in Kansas is over 40 years old, and homes of many low-income Kansans are much older. Most homes occupied by low-income families lack adequate insulation and have older, less efficient (and sometimes dangerous) mechanical systems. According to a recent study, nearly 43,000 Kansas households spend 44.7% of their income on home energy bills and another 27,564 households spend 18.0% of their income on energy bills (see *Kansas Energy Plan 2008*, p. 26).

The weatherization assistance provided by the Kansas Weatherization Assistance Program not only helps low-income Kansas residents save money on their energy bills, it also benefits the residents' health and safety through improvement of indoor air quality, vent repairs for water heaters and furnaces, removal of unvented heaters, duct balancing to eliminate backdrafts, and repair of gas leaks.

Operated by the Kansas Housing Resources Corporation (KHRC), WAP provides housing improvements that increase energy efficiency in households with incomes up to 150% of the federal poverty level or 60% of the state median income, whichever is higher.

The weatherization improvements are provided through local public or private not-for-profit agencies, which apply for the grants from KHRC. Due to the high technical investment and expertise required to operate the grants, the local grants are generally continued from year to year.

Historically, weatherization has increased residential energy efficiency by up to 25%. In 2006, a total of 1,726 homes were weatherized and 453 dangerous furnaces were replaced. Of the households served by WAP, 506 had occupants who were elderly and 370 were occupied by persons with disabilities.

Traditionally, WAP has been funded solely through federal funds (15% of the LIEAP funds transferred from SRS and annual allocations from the U.S. Department of Energy), the amount of which varies from year to year. In Fiscal Year 2007, the State of Kansas appropriated \$2 million in state general funds to supplement the program's funding (\$2,264,099 from U.S. DOE; \$2,501,399 from LIEAP). The additional State funding allowed WAP to increase the number of homes weatherized by about 30 percent. With predictable State funding, WAP would be able to weatherize more low-income Kansas households and improve program performance at the local level.

In summary, the Kansas Energy Council strongly encourages the Committee to support this bill to:

- promote energy conservation and efficiency statewide,
- improve the comfort and safety of homes occupied by low-income Kansans, many of whom are elderly or disabled,
- reduce utility bills for more low-income Kansans, and
- improved affordable housing stock.

Again, thank you for this opportunity to support SB 580.

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

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SENATE UTILITIES COMMITTEE S.B. 580

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 20, 2008

Chairman Emler and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 580. The Citizens' Utility Ratepayer Board supports this bill for the following reasons:

Senate Bill 580 "creates" a weatherization assistance program account within the state housing trust fund, with moneys credited to the account used to fund grants under the weatherization assistance program to increase housing energy efficiency. Of import in this bill is that the funding commitment will be \$2,000,000 annually. This increase in funding, and the commitment to annual funding, will allow the weatherization assistance program to ramp up its activities to serve more Kansas consumers annually. With the commitment of funding, the weatherization assistance program should be able to maintain this increased activity level into the future.

Utility costs for consumers have increased in recent years, especially the cost of natural gas for heating. The cost of electricity is also starting to increase as fuel costs increase and as an aging infrastructure needs to be updated to meet new demands and new environmental standards. Conservation, weatherization and energy efficiency will become a more important tool to help consumers manage these increased utility costs. The weatherization assistance program is one of the few state programs offered in Kansas, and the modest funding commitment provided by this bill is a step in the right direction for Kansas consumers.

For the above reasons, CURB urges the committee to pass this bill.

Senate Utilities Committee
February 20, 2008
Attachment 5-1

**Testimony Supporting SB 580
Senate Utilities Committee, February 20, 2008**

Chairman Emler and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I submit this testimony in support SB 580.

SB 580 provides for \$2,000,000 from the SGF to be used to fund grants for low and moderate income homeowners so they can make their homes more energy efficient. This program will be administered through the Weatherization Assistance Program.

The Sierra Club supports efforts to make homes more energy efficient. Doing so helps people save money in the long run through energy efficiency and can help decrease the demand for electricity generated using fossil fuels that add greenhouse gasses to our air. This would help decrease the advance of climate change.

Making it easier for citizens to take on energy and efficiency projects benefits all of us. Electric bills would be less allowing families to spend money on other essentials. Such spending in the community helps businesses. The need to expand generation capacity is decreased.

The Sierra Club believes it is important to make this type of help available to targeted homeowners. It would also like to see programs to help those who rent where they live to benefit from efficiency and conservation improvements.

The Sierra Club encourages the Committee to support SB 580 and help people live a more energy efficient life.

Thank you
Tom Thompson
Sierra Club

Senate Utilities Committee
February 20, 2008
Attachment 6-1

SENATE BILL No. 555

By Committee on Utilities

Balloon
Amendment

2-5

Senate Utilities Committee
February 20, 2008
Attachment 7-1

9 AN ACT concerning rate increases for certain utilities under the juris-
10 diction of the state corporation commission; relating to notice to cus-
11 tomers of such utilities; concerning the citizens' utility ratepayer board.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) Each electric, gas, telephone or water utility over
15 which the state corporation commission has jurisdiction which applies for
16 ~~an increase in tariffs or charges~~ shall provide a notice of such proposed
17 ~~tariff or charge increase~~ including, but not limited to, a comparison of
18 current and proposed rates and a description of the cost increase for a
19 typical customer. Such notice shall be in boldface type and in no smaller
20 print than 8-point type and shall be included as a bill insert in the cus-
21 tomer's ensuing monthly bill following the application and shall include
22 a contact telephone number the customer may call to receive additional
23 information concerning the rate increase from the utility proposing such
24 increase.

25 (b) The state corporation commission shall report to the citizens' utili-
26 ty ratepayer board each application for ~~an~~ increase in ~~tariffs~~ or ~~charges~~
27 by each electric, gas, telephone or water utility over which the state cor-
28 poration commission has jurisdiction within seven days of receipt of such
29 application by the state corporation commission.

30 (c) The citizens' utility ratepayer board shall inform such electric, gas,
31 telephone or water utility in writing whether such board intends to in-
32 tervene in the rate hearing conducted by the state corporation commis-
33 sion not less than 30 days following the receipt of notice of application
34 for a major ~~rate increase from the state corporation commission.~~

35 Sec. 2. This act shall take effect and be in force from and after its
36 publication in the statute book.

a major increase in rates or charges

major increase in rates or charges

and a website address for the state corporation commission

a major

rates

and the state corporation commission

increase in rates or charges. The state corporation commission shall post on their website whether the citizens' utility ratepayer board intends to intervene upon receipt of such decision.

(d) As used in this section, "a major increase in rates or charges" means:
(1) The application relates to a general increase in revenues for the purpose of obtaining an alleged fair rate of return;
(2) material changes in operations, facilities, or cost of service occur subsequent to the test year employed in any major rate decision, except for proposals that are for the sole purpose of compensating for the increased production or purchase cost of a principal product; or
(3) The application for a major increase in rates or charges will, in the opinion of the state corporation commission, materially affect the public interest if it is granted.

Subject: Testimony regarding SB555

Presented by: John E Flower
15515 Cedar Lane
Bonner Springs, Kansas 66012

I applaud the Senate Utilities Committee for the initiative to advance SB555 regarding the notification of patrons and others when utilities apply for a rate change.

There are two issues I'd like to discuss with the Committee. The first is the heart of SB555 to extend the time of notification to customers of impending rate cases. The second is the apparent low level of importance placed by the KCC in its mission and action in overseeing rate requests of water districts and how early notification may help.

The need for additional time for notification is apparent from a recent request for a rate increase by Suburban Water System (SWS). I use this as an example not to rehash that specific rate case result. The timeline below and actions highlight several frailties with the existing system. I've abbreviated the timeline for the Suburban Water System as follows:

Application Filed	May 31, 2007
Notice of Public Hearing (Mailed)	October 2, 2007
Notice of Public Hearing (Published)	October 25, 2007
Public Hearing	November 8, 2007
Staff recommendation of approval to KCC	November 14, 2007

The above timeline demonstrates how four (4) months expired before any notification was given to Suburban customers after Suburban had applied for a rate increase. The applicant had spent over two years planning for the filing of this rate case. Once notice was given, the customers had less than twenty-six (26) working days to organize and react. If you missed the letter and only saw the notice in the paper, you had nine (9) days to react. Those interested but who would not have been notified by mail would be landlords and lease owners whose renters pay the utility bill, to mention a few. Rate increases have a definite impact on the rental rates they can charge and the type of business which would have interest in their property.

Given the limited amount of notice it was amazing the number of people who actually were able to attend the public hearing. I believe there were well in excess of 125 people and this is in a water district which only serves less than 1500 patrons. One might perceive this would demonstrate the current timing was adequate but given the quickness of the Staff recommendation subsequent to the hearing it is apparent it was

not sufficient and the rate increase was recommended for approval without comment of the public concern from the hearing. It was felt additional time to prepare would have allowed the customers to present a more convincing case for modification of the rate request increase. This would lead citizens of Kansas, the customers of Suburban, to believe their input carried no weight and it was a waste of time for all parties.

At the public hearing we were told, by the KCC Staff, this was our only opportunity to provide input because we would not be able to address the KCC directly. It should be noted all of the utility testimony is part of the public record. Yet we were told and by rule, our comments would not be a part of the public record. Does this seem one sided to anyone. This completely wipes from the record any public comments for future customers to utilize. In addition, by rule, if a utility comes back within 12 months for a new rate case they can use information presented in the previous request. We were told our testimony would be transcribed and given to the Commissioners to read, period.

During this hearing the facilitator and the staff kept indicating it was an unusual case since there are only two or three private water companies in the state. Indicating the Staff was unfamiliar with how to handle such a case. This seems a little strange to me since the KCC deals with for-profit utilities every day. I don't see why the type of utility would make a difference.

Then to add insult to injury, as you can see on the timeline, the Staff recommended the Commission approve the request for a 37% rate increase, just three (3) working days after the Public Hearing. It is apparent the public testimony, if even considered by the Staff, was quickly dismissed. The applicant had spent over two years planning for the filing of this rate case. The customers were given less than a month to organize, prepare to present evidence and gain an engineering position. This clearly skews the decision in the favor of the applicant.

I hope you can see the above method provides little to no time for the patrons of utilities to react to application for rate requests. It is particularly frustrating to a group of citizens who would want to approach the request in a sane manner. A group which would approach the issues through gained knowledge and a review of all appropriate documentation. A group dedicated to contributing to the knowledge of all associated with the rate request to assure fair and equitable treatment. I'm not referring to a group such as CURB but rather just regular customers. The assistance of CURB is always appreciated but given its limited resource the public can aid in the search for truth and comprise, when they are informed.

The handling of the Suburban rate case is the type of event which makes citizens suspect of the safe guards which are supposed to be in place. This Bill will go a long way to level the regulator system playing field. The SB555 provides a framework to

assist in assuring fair notice is given so we have informed citizens. It improves the transparency of the process to all and helps insure informed input to the process by the citizens.

The second issue I want to discuss is the KCC's oversight of water rate cases and how advanced notification can make a difference. As you will see in the KCC literature shown below, regulation of water appears to be an afterthought for the KCC. In my investigation of the KCC's charter, I find little or no mention or interest over water rate cases. The mere mention only takes place in the K.A.R.'s and then only sparsely. It is apparent this is a low priority on the KCC list of important things to do. As a citizen of Kansas I would expect the same due diligence in water cases as I have experienced in telecommunications rate cases. The following is the stated regulatory authority directly from the KCC webpage.

Regulatory Authority

The Kansas Corporation Commission (KCC) regulates five cornerstone industries in the Kansas economy. The Commission has the responsibility of ensuring that natural gas, electricity, telephone and transportation vendors provide safe, adequate and reliable services at reasonable rates. The Commission also has the mandate of assuring that oil and gas producers protect correlative rights and environmental resources.

The authority of the KCC is derived from KSA 74-601 to 74-631.

What is regulated & what is not

In the absence of competition, the KCC regulates public utilities, common carriers, motor carriers, and oil and gas producers. It does not regulate most electric cooperatives, water cooperatives, municipalities, wireless telephones, long distance phone services, cable companies or the internet.

You'll note the only mention of water is in the "not regulated" sentence. I realize the document states "water cooperatives" but the point should be noted in the first statement, one of the five is not water. I mentioned briefly in item one above the comments of the staff regarding the Suburban rate case. Based on the above statements and a review of KSA 74-601 to 74-631 there is no mention of a process for water rate cases. Consequently, I can see why those statements were made.

I would suggest the modification of the notification as presented in SB555 will help in the event the KCC has to opportunity to hear another water case. Perhaps with SB555 the outcome for the next set of clients will be more informed and the results less one sided.

Additions to today's testimony after a review of revision to original SB555

The above comments were drafted for the original hearing date set for February 14th and were for the Bill as it sat on 2/14/08 prior to the modification. I have now had the opportunity to review the amended bill. It is apparent an ex parte meeting took place and the results were not in favor of the customer.

The first concern I have is the definition of "major". The word "major" is mentioned in KRA 82-1-231, but I was unable to find the regulatory definition of the word. This causes me a great deal of concern regarding the effectiveness of the bill to alert customers to rate increases. What one entity deems as major will not be the same as another. This was demonstrated in the above referenced Suburban rate case. CURB felt the amount requested was below their threshold to get involved but to those affected it resulted in a 37% increase allowing Suburban one of the highest water rates in the United States. Point made!

A utility should not be frightened to provide the information regardless of the amount. It appears a non-major rate increase would apparently be of little concern to anyone given the way the regulation is written today. In addition, the utility may feel the expense of notification for a non-major rate increase is unwarranted. However, it should be noted they put the expense in the rate base and earn on the expense to inform the very people who want the information. What do they have to lose? I would submit this change in language is unnecessary. It appears to an effort in subterfuge on the utilities part.

The second issue is the elimination of the need for the requesting utility to inform its clients. The bill as modified basically leaves unchanged the existing system as far as the requesting utility is concerned. I don't believe this was the intent of the original Bill. It places the responsibility for notification of CURB on the KCC. Then it further removes the requesting utility of any responsibility to notify customers. It makes CRUB responsible to notify the clients through the utilities next monthly billing statement, but only if they are not going to intervene. This still leaves the customers in the dark if CURB does intervene and hinders in any chance of customers mounting their own intervention in a timely manner. I'm sure you are all familiar with the concept of "Power of the People."

The modified Bill places the responsibility for notification of customers on everyone but the entity responsible for the need of the notification. I can see the huge mess already of who was supposed to do what to whom when. Let alone get a decision on intervening and coordinating an effort with a utility to get CURB's information in the requesting utilities bill insert before the next bill cycle. Effectively, this would all have to be done in less than 30 days on bill inserts and billing processes which take weeks to months to

modify. The modified language doesn't address the cost of the notification but I would hope it would not be another expense to be taken from the small budget of CURB which could influence the intervention decision. I would also hope it would be a disallowed expense in the rate base.

The suggested modified SB555 has been stripped to the point it is eunuchism in its highest form. The intent to keep rate payers informed when a public utility is about to ask for more money from them, is gone. I suggest the word "major" be eliminated or defined. I also recommend reinstating the original wording requiring the applying utility to inform clients of their intent to raise rates in the next bill cycle insert, subsequent to the application. This allows the utility the ability to plan all phases of the rate request elements so they can best fit it into their normal process and save money. It is after all they who are requesting the rates increase and are able to control the filing to coincide with the timing of their systems and fit their financial needs.

It should be noted this Bill, as originally written, was designed to alert the customers of applying utilities to an impending rate increase in time to become informed and either support or oppose the request. An argument a utility could mount is this Bill will delay the rate making process. I submit the Bill is mute on changing the timeline for a rate case. In fact I applaud the Bill for not adding to the time or requirements. The Bill only changes the timing of a notification which is already required by the KCC. Since it is only a modification of timing and not an additional requirement how could this be of any concern to the requesting utility? Could it be the utilities are more concerned that an earlier and thus more informed public could require more stringent preparation on their part? If this is the concern then SB 555 as originally written is even more needed than we thought.

I appreciate the opportunity to come before you today and express under what conditions I would support SB555. Thank you for your time and your energy.

TESTIMONY

OF

JAMES P. WASHINGTON

1901 160TH STREET

BASEHOR, KS

SUBMITTED TO THE UTILITIES COMMITTEE OF THE SENATE OF THE STATE OF KANSAS

IN SUPPORT OF

SENATE BILL NUMBER 555

FEBRUARY 20, 2008

Senate Utilities Committee
February 20, 2008
Attachment 9-1

Honorable Senators:

I thank you for the opportunity to come before you and speak in support of Senate Bill 555, in the hopes that this small step in securing the rights of the people will become law, and, in doing so, will encourage others across this state to stand to fight some of the other small injustices which in total have laid a burden upon us almost too much to bear.

Late in October 2008 we received a mailing from our water utility, Suburban Water Company – which may be the only private water utility in the State of Kansas, announcing a proposed rate increase of 37% and informing us that there would be a public hearing of the Kansas Corporation Commission concerning this proposed rate increase. While a little water company serving about 1500 customers doesn't have much impact statewide, this case is a microcosm of the entire rate setting process and an examination of it discloses a massive and disturbing erosion of the rights of the people.

The hearing was held at a convenient local school. However, the notice was sent out, as I recall, only about 2 weeks before the hearing date. This provided little time for a rate payer to learn something about the rate making process, about the market and competitive situations and about the company's past performance. Such short notice impeded us substantially in preparing effective testimony to balance the company's justification of such an incredible increase. This is an increase for a company which already had the highest rates in the state and among the very highest in the country.

We were able to put together a short presentation and encourage many of our neighbors to attend the hearing. As we went through the process of the hearing and everything we did subsequent to the hearing in a futile attempt to assert the injustice of the rate increase was like peeling an onion of injustice.

Upon arriving at the hearing we were given an information sheet which stated that the Corporation Commission staff had already recommended approval of the increase. How obvious that the testimony of the rate payer, the citizen of this state, no matter how reasoned, no matter how powerful, would be given no weight at all in this process. Thus the first injustice of delaying notice to the affected rate payer more than 5 months after the rate increase request was filed, enables the further injustice of approving a negotiated settlement of the entire rate increase with no input whatsoever from those most affected.

We thought that we as rate payers had some status in this process. A little further along this process we find that rate payers have no legal status in a rate case.

We also found that the agency which is charged to represent the rights of the rate payer in these matters, the Citizens' Utility Ratepayer Board was initially unaware of this filing. When I contacted them and asked them to intervene they made the decision not to intervene citing limited resources and the fact that, despite the egregious impact on the customers of this utility and their service area, the total dollar impact was very small when viewed statewide.

As political neophytes, we put together a small ad hoc group from the folks who attended the public hearing to provide more information to the Corporation Commission and other branches and agencies of state government. We hoped someone would listen to us. We generated a significant amount of correspondence, some of which was developed and provided by certified engineering professionals. Of course this did no good whatsoever. In the process we unearthed the following items we see as absolute injustice.

1. Notice is habitually provided to the rate payer on a timeline that makes it impossible to mount a rational opposition to the rate filing. While I use the Suburban example because it is the case our group pursued, a short time after the Suburban public hearing, at our home, we received a Westar hearing notice three days before it was scheduled. In addition, Atmos Energy has an ongoing case, 08-ATMG-280-RTS, filed September 14, 2007. We received notice of this about the 1st of February announcing a February 13th public hearing.

It is the position of the Corporation Commission that posting on their website constitutes notice. This is a ludicrous expectation that all citizens have internet access and we make a practice of checking the KCC website every few days to see who wants in our wallet next.

2. The rate payer has no legal status in the process. We, as citizens, are not a legal party to the proceeding and thus cannot file a petition for reconsideration regardless of how unfounded and devoid of ration and logic the finding of the Commission may be.
3. The Commission biases their information service and postings against the rate payer or anyone else who may oppose a rate filing. We learned that the KCC website had available to the public by download, all of the company filings and testimony and all of the staff or staff secured favorable testimony. For anyone of the public to see their testimony or any testimony opposed requires a trip to the Commission offices where they may see testimony and receive copies for a price. How is this detriment? An individual or group who may want to oppose a filing has no idea whether they're out there alone or whether there is potential to put together a mass movement.
4. The cost of the company filing a request for rate increase, no matter how unfounded is part of the rate base. The customer has to pay for the privilege of paying more.
5. The cost of a CURB intervention also becomes part of the rate base. This cost added weight to CURB's decision not to intervene in this case. CURB should be adequately funded and should be funded from the General Fund, so that decisions to intervene can be made purely on the merits of the filing, without concern with an ultimate impact on the rate payer's bill.

In our attempt to get someone to listen to us in this matter there are two things that bear reporting. First, Senator Pine and the two State Representatives in whose districts this company operates all cooperated in meeting with us and pushing for a fair consideration both in sending an ex-parte

letter to the commission and introducing this legislation. Second, when it was all said and done I had a long conversation with David Springe the executive director of CURB who said that had they had an earlier indication of how hot this issue was they would have made the decision to intervene, he also intimated that at least one member of the KCC somewhat expected a CURB intervention. This is small consolation for those of us who have will have to cash a CD, take a second mortgage, find a second job or take up some less savory pursuit, just to have green grass next July.

Senate Bill 555 addresses a couple of these injustices and is a beginning in the recovery of some equity in the rate setting process. We strongly encourage you to send this bill to the floor with a unanimous committee recommendation for approval.

Thank you very much for the opportunity to make my views part of the record.

Office of Public Affairs & Consumer Protection
Attn: Marge Petty, Director
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604-4027

Rural Water Not for Profit

Why is an individual granted the right to own a water line, while all the other water lines are owned by the patrons?

I understand this added 12" line coming from BPU was installed with the reason being to sell to the City of Tonganoxie which failed as it should have.

Now Suburban is going to sell to Water District 6. I don't think there was any reason or thought given to the Suburban customers other than when the original motive failed to try and make the patrons of Suburban pay for this tower and the line supplying the water tower. I would like to see records of the cost of the tower and separate costs for the supply line. I don't believe the costs shown are for the tower. I would like to know who put the time frame together to depreciate this installation.

I think when we look at the fact that Rural Water should be non-profit, the patrons are seeing exactly the opposite in a great amount. Some of the costs from this type of thing would be interest depreciation which varies considerably when we are talking about cost instead of greedy profits.

Back in the early eighties, the new owners of Suburban called a meeting together at the 4-H building at which his reason was to research what needs and costs to have a water line. The people present contributed money for that purpose. In a short time the person that called the meeting announced that interest rates were too high to proceed. I never received any of what I gave for this project and I question that any one else did either. So, I know, there should be shareholder in what is "Suburban Water."

Respectfully,



Ben R. Myers
20776 Evans Rd.
Tonganoxie, KS 66086
(913)845-2402

Senate Utilities Committee
February 20, 2008
Attachment 10-1

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

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SENATE UTILITIES COMMITTEE S.B. 555

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 14, 2008

Chairman Emler and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 555. The Citizens' Utility Ratepayer Board is neutral on this bill but does have some suggested clarifications:

Senate Bill 555 deals with notice issues surrounding the filing of a rate case with the state corporation commission. In its simplest form, Section 1 of the bill requires utilities to provide notice of a proposed increase in tariffs or charges to customers, along with a comparison of current and proposed rates and a description of the cost increase, within the next billing cycle for the customer after the application. Section 2 of the bill requires the state corporation commission to give notice to the citizens' utility ratepayer board of each application for an increase in tariffs or charges within seven days of the receipt of such application. Section 3 of the bill requires the citizens' utility ratepayer board to inform the utility filing such application, in writing, whether the board intends to intervene in the rate hearing conducted by the state corporation commission, not less than 30 days following the receipt of notice of application for a major rate increase from the state corporation commission.

Section 1 of SB 555

CURB supports the idea of early notice to customers when a utility files a rate case. Consumers should be made aware of the potential impacts of a rate case at the earliest possible time. However, as written the language in Section 1 may be overly broad. Section 1 requires a billing insert for every application for an "increase in tariffs or charges" (line 16) as a form of notice. However, not every application of an "increase in tariff and charges" is a full rate case and considering the cost to send bill inserts, this notice requirement may be impractical. For example, a filing to increase the annual property tax surcharge pursuant to K.S.A. 66-117(f) is an increase in "charges", but probably does not rise to the level of a change in rates that should require the expense of a bill insert for notice purposes. CURB suggests adding the language "*filed pursuant to K.A.R. 82-1-231, 82-1-231a or 82-1-231b¹*" after "increase in tariffs or

¹ K.A.R. 82-1-231 sets forth the filing requirements for Class A utilities. All Class A utilities file rate cases pursuant to this regulation.

charges” at line 16. This language would more directly point the notice requirements in the proposed statute to instances where the utility has filed a traditional rate case.

Section 2 of SB 555

Section 2 of the bill should be made consistent with whatever language changes are made in Section 1 of the bill to clarify in which cases the state corporation commission must give CURB notice.

Section 3 of SB 555

In cases in which it participates, CURB files a written petition to intervene with the state corporation commission, usually within 30 days of the filing of an application. This petition is legally served on the utility and is considered written notice to the utility of CURB’s intention to participate in the case. This is consistent with what is required in Section 3 of the bill for those cases in which CURB participates.

What Section 3 requires that is not required currently, is for CURB to inform the utility *in writing* of its intention to *not* intervene in a case. CURB cannot participate in the case without first filing a petition to intervene, and the utility, having not received a petition is on notice that CURB is not participating in the case. While CURB can, if required in this bill, send a written notice of its intention to not intervene in a case, it does seem redundant to have this requirement. If CURB is required to provide this written notice, the suggested language above to limit the provisions of this statute to traditional rate cases would be more appropriate than the language currently in the bill.

CURB would like one clarification in the section. The section requires CURB to give written notice to the utility “not less than 30 days” following receipt of notice of application of a major rate increase from the state corporation commission. It seems that this section might be clearer if it read “not more than 30 days” or “within 30 days” following the receipt of notice.

K.A.R. 82-1-231a sets forth the filing requirements for a rural electric distribution cooperative system providing service to fewer than 15,000 customers. (Note however, that most electric cooperatives serving fewer than 15,000 customers are no longer rate regulated by the state corporation commission. Also, CURB by statute is precluded from participating in cases for electric cooperatives with less than 15,000 customers, which would make Section 3 of SB 555 unworkable. It might be prudent to not include these customers in SB 555)

K.A.R. 82-1-231b sets forth the filing requirements for other than Class A utilities. This section provides an alternative for smaller utilities to prepare a less expensive rate filing, more appropriate to the operation of smaller utilities.

Also please note the K.A.R. 82-1-231 and K.A.R. 82-1-231b specifically exempt a telecommunication utility subject to price cap regulation pursuant to K.S.A. 66-2005(b).

PRICE DEREGULATED EXCHANGES AND COMPETITIVE EXCHANGES

KCC/2/19/08

Table 1 contains the exchanges that have been price deregulated pursuant to KSA 66-2005(q). Table 2 contains the exchanges that have been placed in a competitive sub-basket pursuant to KSA 66-2005(p). One application was recently filed and is noted as pending. The competitive sub-basket provides more pricing flexibility for the carrier, but the exchange is not price deregulated.

Table 1: PRICE DEREGULATED EXCHANGES PURSUANT TO KSA 66-2005(q)

Exchange	Carrier	Bus	Res	Docket No.	Date Filed	Date Approved
Smith Center	AT&T	X	X	08-SWBT-173-PDR	8/10/2007	8/31/2007
Colby-Gem	AT&T	X	X	08-SWBT-173-PDR	8/10/2007	8/31/2007
Lawrence	AT&T	X	X	08-SWBT-246-PDR	9/5/2007	9/25/2007
Leavenworth-Lansing	AT&T	X	X	08-SWBT-246-PDR	9/5/2007	9/25/2007
Eudora	AT&T	X	X	08-SWBT-246-PDR	9/5/2007	9/25/2007
Tonganoxie	AT&T	X	X	08-SWBT-246-PDR	9/5/2007	9/25/2007
Clinton	AT&T	X		08-SWBT-246-PDR	9/5/2007	9/25/2007
Basehor	AT&T	X	X	08-SWBT-246-PDR	9/5/2007	9/25/2007
Hays	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Phillipsburg/Kirwin	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Goodland	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Medicine Lodge	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Pratt	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Almena	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Norton	AT&T	X	X	08-SWBT-316-PDR	10/2/2007	10/23/2007
Arkansas City	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
El Dorado	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Hutchinson	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Kingman	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Manhattan	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Newton	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Nickerson	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Salina	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007
Towanda	AT&T	X	X	08-SWBT-452-PDR	11/8/2007	11/29/2007

Table 2: EXCHANGES PLACED IN COMPETITIVE SUB-BASKET PURSUANT TO KSA 66-2005(p)

Exchange	Carrier	Bus	Res	Docket No.	Date Filed	Date Approved
Gardner	Embarq	X	X	05-UTDT-542-MIS	12/22/2004	1/27/2
Belle Plaine	Embarq	X	X	07-UTDT-1264-MIS	5/10/2007	6/29/2
Horton	Embarq	X	X	07-UTDT-1264-MIS	5/10/2007	6/29/2
St. Mary's	Embarq	X	X	07-UTDT-1264-MIS	5/10/2007	6/29/2
Burrton	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Cunningham	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Hesston	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Hiawatha	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Horton	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Junction City	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending
Sterling	Embarq	X	X	08-SLDC-759-PDR	2/13/2008	Pending