

Senate Committee on Utilities
Testimony of Citizens' Utility Ratepayer Board
Written and Oral Neutral Testimony
House Bill 2527
March 18, 2024

Chairman Fagg and members of the Senate Committee on Utilities, thank you for this opportunity to testify regarding House Bill (HB) 2527. My name is David Nickel. I am the Consumer Counsel for the Citizens' Utility Ratepayer Board (CURB). CURB is the advocate for residential and small commercial ratepayers before the Kansas Corporation Commission (KCC) and the Kansas Legislature. My testimony reflects the interests of these utility ratepayer classes regarding HB 2527.

When HB 2527 was initially heard before the House Committee on Energy, Utilities and Telecommunications on February 6, 2024, CURB opposed it. CURB's opposition was principally due to Section 2 of the bill. As initially introduced, Section 2 of the bill provided, among other things, that a large public utility could elect to base its rate of return on equity (ROE) upon the fully-litigated case 12-month average from the most recent report issued in the regulatory research association regulatory focus publication (or successor publication) for the applicable utility type, but excluding observed rates of return for certain types of utilities cases. There were other sections of the bill that were also problematic for CURB.

In its opposition testimony, CURB stated that it believed that the bill ushered in an unwarranted change to the utility regulation paradigm in Kansas which has worked to set rates in a lawful manner for over a century. CURB stated that a utility should not be allowed to select its ROE based on other utilities that have no relationship to Kansas ratepayers. Further, CURB stated that it would join in the testimony posited by other conferees that are opposed to other aspects of the house bill. However, CURB stated that it would welcome a frank discussion with utilities, KCC staff and other stakeholders regarding reasonable improvements that can be made to the regulatory framework in Kansas, including discussion of all sections of the bill.

Following the hearing of February 6, 2024, before the House Committee on Energy, Utilities and Telecommunications, Every arranged meetings with CURB and several other stakeholders in order to work towards a mutual solution to the issues that are addressed by HB 2527. Through that process, CURB voiced several concerns and agreed with some of the concerns brought by other stakeholders. Some of those concerns were resolved while others were not. Critically, CURB's biggest concern, Section 2 of the bill, was eliminated.

As a result of these meetings and the good faith of all stakeholders involved, several significant improvements were made to HB 2527. CURB understands that the KCC staff has determined that the amended provisions of the bill are not contrary to the interests of ratepayers in general. In fact, several stakeholders who opposed the initial version of the bill are now unopposed to the current version of the bill. The neutral positions of these parties was brought about by the

favorable improvements to HB 2527. In light of these positive changes, CURB has likewise determined not to oppose the bill, although we reserve the right to express the reasons why we do not support it.

Significantly, with respect to CURB's neutral position, one thing that we found compelling is our understanding that further discussion on rate structure and regulation will take place among stakeholders. To CURB, this is the bigger issue that must now be determined. The truth of the matter is that rate regulation principles that were appropriate in the 1960s may no longer fit the economic circumstances surrounding rate regulation today. Stakeholders need to find a mutually agreeable solution of how to regulate utilities in a manner that provides the discretion to deal with highly dynamic economic circumstances while protecting consumers. In the near future, Kansas may have to deal with energy storage batteries, use of SMRs to power the grid, the ever-increasing cost of repairing an aged transmission and distribution system, increased needs for power, and other potential issues. Such issues are not directly addressed by HB 2527, but the avenue to discuss them is provided.

CURB's neutral position on HB 2527 is not intended, and should not be construed to mean that CURB has changed its position on certain issues. To be sure, CURB has regularly testified before the KCC in opposition to requiring ratepayers to pay for capital investments made by utilities until such investments are placed into service and found by the KCC to be useful for consumers. Further, in rate cases, CURB normally opposes surcharges that are placed on consumers' bills, as being confusing and contrary to the concept of regulatory lag which aims to emulate normal retail competition wherein businesses try to keep costs low. CURB has also opposed Economic Development rates proposed in legislation during the last few years as favoring one set of customers over others. Although CURB is neutral on this bill, due to the unique circumstances present, CURB remains committed to its principles. In all matters, CURB strives to be principled, but reasonable.

In sum, CURB recognizes the unique circumstances that need to be addressed and the need for an avenue to address them in a non-adversarial manner among all stakeholders. That is the compelling reason why CURB is not opposed to HB 2527. Therefore, while CURB cannot fully support HB 2527 due to the principles that CURB maintains, CURB does not believe that it is in the long-term interest of ratepayers to oppose HB 2527. Thank you.