

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidricksen at 9:00 a.m. on February 17, 1994 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Eric Milstead - Attorney, Citizens' Utility Ratepayer Board  
Frank Thacher - AARP State Legislative Committee  
Steven Hamburg - Pinckney Neighborhood Association, Lawrence  
John Holgren - Consumer, Topeka  
Margaret Miller - Wichita

Others attending: See attached list

### **SB 526 - Abolishing Citizens' Utility Ratepayers Board (CURB)**

The Chairman opened the meeting by giving a brief explanation and background of the bill.

Eric Milstead was introduced and he addressed the Committee in opposition to the bill. Mr. Milstead explained the creation of CURB and emphasized that it does not duplicate the efforts of the Kansas Corporation Commission but is a necessary, vital and effective advocate for residential and small commercial ratepayers as it provides independent representation for them in proceedings before state corporation commissions. He stated that CURB has saved the ratepayers of Kansas approximately \$57 million and is statutorily empowered to appeal Corporation Commission decisions to either the district court or the State Court of Appeals. Before CURB was established, residential and small commercial ratepayers had no practical way of appealing while industrial customers would have the resources and financial interest sufficient to justify an appeal. CURB also represents individual consumers, at no cost to them, who are having problems with their utility companies and have also improved consumer protection in areas such as security deposits and collection and disconnection practices. He explained that CURB's budget is assessed against the utility companies and, in turn is collected through rates from the consumers they represent as this is the fairest way to fund their operations. He emphasized that consumers need more opportunities to be heard and urged the members of the Committee to vote against **SB 526**. (Attachment 1)

The Chairman distributed and read a letter from Pet Loux, former Chairman of the Kansas Corporation Commission (Attachment 2) and asked questions of Mr. Milstead.

Frank Thacher spoke in the interest of AARP stating that their one interest is that the rate setting process be monitored so that the interests of all Kansas residential and small commercial ratepayers be protected by competent, knowledgeable counsel as are the interests of large commercial users through counsel they are able to afford. He asked the Committee to examine the facts and vote no on **SB 526**. (Attachment 3)

Mr. Hamburg spoke in opposition to this bill citing the opportunity he had to work closely with CURB in order to get neighborhood concerns about the placement of a high-tension line heard. He stated that CURB played a critical role in the resolution of the issue and allowed the neighborhood to effectively operate within the quasi-judicial framework of the Kansas Corporation Commission. Mr. Hamburg stressed that the KCC is not user friendly and it is almost impossible for an average citizen to effectively impact the KCC decision making process. He felt that the only hope that the citizens of Kansas have for being effectively heard before the KCC is through the efforts of CURB. (Attachment 4)

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E-Statehouse, at 9:00 a.m. on February 17, 1994.

John Holmgren addressed the Committee as a consumer in opposition to **SB 526**. He pointed out that CURB underwent a required review in 1991 and was continued based on small commercial and residential utility review activities which had been deemed consumer oriented and necessary. He stated that these activities continue in the same way and that there does not appear to be any need to abolish this program. ([Attachment 5](#))

Margaret Miller spoke briefly, due to time constraints, and stated that CURB is one of the most valuable agencies we have in Kansas and that it more than pays its own way as it represents residential and small business utility ratepayers in the regulatory process and in court appeals. ([Attachment 6](#))

Additional testimony was also submitted but not read from:

Margaret Bangs - Wichita - ([Attachment 7](#))  
Linda Weir-Enegren - ([Attachment 8](#))  
Bob Eye - Topeka - ([Attachment 9](#))  
Bobby Geger - Newton - ([Attachment 10](#))  
Sue Johnson Giles - ([Attachment 11](#))  
LaVon Kruckenberg - 1st District - ([Attachment 12](#))  
Arris Johnson - Hays - ([Attachment 13](#))  
Kathryn Lemosy - Topeka - ([Attachment 14](#))  
Debra Leib - Executive Director, Cause of Kansas - ([Attachment 15](#))  
Randal Loder - Garden City - ([Attachment 16](#))  
Vera Sieben - Winchester - ([Attachment 17](#))  
O. E. Spencer - Newton - ([Attachment 18](#))

In addition to these, a letter from The Legislative Research Department to Representative Tim Shallenburger was submitted. ([Attachment 19](#))

A motion to approve the minutes of the February 15 meeting was made by Senator Tiahrt and seconded by Senator Jones. Motion carried.

The meeting was adjourned by the Chairman.

The next meeting is scheduled for February 18, 1994.

# GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

DATE: February 17, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Rob Hodges	Topeka	Ks Telecom Assn
TOM DAY	TOPEKA	KCC
TREVA POTTER	TOPEKA	MIDWEST ENERGY
Ungar Starr	Topeka	AT&T
Marshall Clark	Topeka	K E C
HAROLD C. P. TIS	Topeka	AARP - CCTF
Bill Claven	Topeka	Ks Sierra Club
ROTHA W. HIEBERT	N Newton	CURB
Donna Newfeld	N. Newton	CARB
Sandra Dinn	Topeka	RODA
Beth Rumbalau	Topeka	CURB
Geely Condo	Topeka	CURB
Don GRANT	n	KCC
Quende Hong	10105W Polk, #30, 66612	Bob Eye for Governor
Ken Ottewill	Wichita	State Rep.
JOHN HOLMGREN	Topeka Ks	Consumer
Lester Murphy	Topeka	KEC
Ray Lemasz	Topeka	NA
Quenti DAVIS	WILMITA	KARB
ARRIS JOHNSON	Hays	AARP - Silver Haired Legio.
FRANK HACHER	TOPEKA	AARP

GUEST LIST (continued)

DATE: \_\_\_\_\_

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SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Testimony in Opposition to

Senate Bill 526

THE CITIZENS' UTILITY RATEPAYER BOARD

Eric Milstead - Attorney

February 17, 1994

Good morning, Mr. Chairman and members of the Committee. I am Eric Milstead, attorney for the Citizens' Utility Ratepayer Board (CURB). I am testifying here today in opposition to Senate Bill No. 526. CURB represents residential and small commercial ratepayers in public utility matters. As will become apparent during my remarks, I am very proud of CURB and what it has accomplished for Kansas ratepayers.

At the outset and in response to certain quotes I have read in the newspapers, I want to state unequivocally that CURB does not duplicate the efforts of the Kansas Corporation Commission (KCC). An understanding of the regulatory process will reveal that CURB is a necessary, vital, and effective advocate for residential and small commercial ratepayers.

ATTACHMENT 1

SEN. TRANS. 2/17/94

1-1

For a number of years, attempts were made in the Kansas Legislature to establish a utility consumer advocate. Those attempts were unsuccessful. After his election, Governor Mike Hayden established a task force to recommend a method for increasing small consumer representation in the regulatory process. That task force disbanded after being unable to reach a consensus. In January, 1988, KCC Chairperson Keith Henley carved out a piece of the KCC budget and announced the creation of CURB. Chairperson Henley appointed the initial CURB members in April of 1988.

Being a creation of the KCC, and existing at its pleasure, created some problems. It meant that CURB did not have all the legal tools needed to do its job. The National Association of State Utility Consumer Advocates refused CURB membership on that basis. Recognizing those problems, the 1989 Legislature re-created CURB as a matter of state statutory law. The CURB bill was introduced in the Senate by Senator Bill Morris. The CURB bill received almost complete support in the Senate. Statutory existence for CURB provided the agency with the necessary autonomy from the Commission. Following the enactment of the CURB bill,

Governor Hayden reappointed all the original CURB members to new "statutory" terms.

It is critically important to note that Kansas is but one of 38 states to establish by law a utility consumer advocate. It is simply a well-understood principle in the regulatory process that residential and small commercial ratepayers need and deserve independent representation in proceedings before state corporation commissions.

CURB itself is composed of five consumer advocates, one from each congressional district and one at-large. These advocates are appointed by the Governor for staggered four-year terms. CURB Board members are volunteers and are not paid for their service on the Board. Our current chairperson is Sue Johnson Giles, from Pittsburg. Our vice-chairperson is Donna Kidd, the director of the Jayhawk Area Agency on Aging in Topeka. The other members are Bobby Seger from Newton, Lavon Kruckenberg from Great Bend and John Sutter from Kansas City. The CURB Board directs the activities of the Office of Consumer Counsel which presently consists of myself (the special projects attorney); Beth Runnebaum, our office specialist; and Kathy Combs, our secretary. The Consumer Counsel's

position has been vacant since mid-November, 1993, but an individual has been presented to the Governor and the position should be filled shortly.

To understand why the great majority of states have recognized the need for an advocate for small utility consumers, one must understand how the regulatory process works. Rate-setting is a technical, legalistic process. Rates are set on the basis of evidence that is introduced in formal hearings with the commissioners sitting as judges. The decisions of the commissioners can be and frequently are appealed to the courts.

In this rate-setting process, the utility's lawyers and expert witnesses act as advocates for the company's interests. The utility's large customers typically hire lawyers and witnesses to advocate for their interests. The KCC staff does not act as an advocate for anyone. Its job, instead, is to assist the KCC in its legal duty of balancing the interests of the company and all the company's customers. (This description of the KCC's role in the process is not simply CURB's characterization, the Kansas Supreme Court has specifically stated: " the rate-making process involves a balancing of the investor and the consumer



interests." See, Kansas Gas & Electric Co. v. Kansas Corporation Comm'n., 239 Kan. 483, 489 (1986)).

Without CURB, consequently, there is a gap in the process. If Senate Bill No. 526 passes, the residential and small business customers, who make up the great majority of the utility's customers, would be unrepresented. If they are unrepresented they are unprotected. That explains, in large part, why, as far back as 65 years ago, states began to fill this gap by creating offices like CURB. This also illustrates the legal inaccuracy of the time-worn argument that CURB simply duplicates what the KCC already does.

The "duplication" argument also is inaccurate from a practical viewpoint. To confirm that, one need look no further than the savings we have accomplished for Kansas ratepayers. Those savings can be found in an attachment to my testimony. These savings are conservatively estimated and I can provide supporting documentation and calculations for them. We take credit only for KCC-adopted adjustments that only CURB advocated. We do not take credit for KCC-adopted adjustments that were advocated by parties other than CURB. With those qualifications in mind,

since its inception, CURB has saved the ratepayers of Kansas approximately \$57 million. Over that same period of time CURB's cumulative expenditures have been approximately \$1.5 million. That works out to between \$37 and \$38 in benefits to ratepayers for each dollar spent. In light of these results, another time-worn argument, that CURB is simply more bureaucracy, is unpersuasive. I am not aware of a more cost-effective governmental organization in this state.

Another very important point is that CURB is statutorily empowered to appeal Corporation Commission decisions to either the district court or the State Court of Appeals. Before CURB was established, residential and small commercial ratepayers had no practical way of appealing Commission decisions. In contrast, prior to CURB, all other parties to rate cases could appeal Commission decisions. Because of the number of customers in the residential and small commercial customer classes, the comparatively small size of each customer's utility bill, and the cost of an appeal, the small consumers did not have a practical way of appealing Commission decisions. Conversely, the utility and the industrial customers would typically have the resources and financial interests sufficient to justify an appeal. With its right of appeal, CURB presents a



strong and effective voice for residential and small commercial ratepayers, insuring that all customer classes have the same opportunity to be heard.

Another argument made by CURB opponents is appropriately addressed here. It has been stated that not many rate cases are being filed these days so there is not much work for us to do. Since its inception, CURB has been involved, formally or informally, in over 200 cases, issues, or requests for assistance. Again, I am not aware of any four-person office in state government that handles a caseload such as this.

As a final matter, before I move on to another subject, I also should point out that CURB does not just become involved in major rate cases and generic investigations. We also represent individual consumers, at no cost to them, who are having problems with their utility companies. In addition many of our accomplishments cannot be measured in dollars and cents. For example, we have improved consumer protection in areas such as security deposits and collection and disconnection practices.

That is a summary of what CURB is and what CURB has accomplished for Kansas ratepayers. The final area I will address before entertaining questions is our budget. Although the Legislature sets our budget, CURB is not funded by tax dollars. CURB is not funded from the general fund. CURB's budget is assessed against the utility companies and, in turn, collected through rates from the consumers CURB is representing. This is the same way the KCC is funded. It's the fairest way to fund our operations. For example, right now we are spending considerable time on the pending Southwestern Bell Telephone "TeleKansas" case. Because of the assessment mechanism, our expenses in this case will be paid by the ratepayers we are representing in this case as opposed to, for instance, Greeley Gas Company ratepayers.

In FY92, our approved budget was about \$311,000. In FY93, our approved budget was about \$312,000. In FY94 our approved budget is about \$353,000. The increase is almost entirely attributable to the salary and fringe benefits associated with an additional attorney position--the special projects attorney. Because of the cost-effective nature of CURB, the office's heavy caseload described earlier and in light of the Consumer Counsel's resignation in November, the funding for the additional

attorney's position has been money well-spent. In the absence of a Consumer Counsel, CURB has still participated effectively in representing residential and small commercial ratepayers.

One final note about CURB's budget is that, in each year's budget, approximately \$150,000 is designated for consultant fees. Rate making is a highly technical field that requires expert witnesses such as accountants, economists, and engineers. CURB does not have a technical staff so we use our consultant fund to hire expert witnesses on a case-by-case basis.

I will close by reiterating that CURB is simply that agency which advocates on behalf of all residential and small commercial ratepayers. CURB is not an anomaly--the vast majority of states have recognized the need to create a utility consumer advocate. As Senator Sandy Praeger stated while commenting in opposition to Senate Bill No. 526 in a recent edition of the Lawrence Journal-World, "Consumers need more--not fewer--opportunities to be heard." The passage of Senate Bill No. 526 would effectively silence the voice of residential and small commercial ratepayers in public utility matters. I urge the members of this

Committee to vote against Senate Bill No. 526. I appreciate your attention today and would be happy to answer any questions you might have.

## SAVINGS AND IMPACTS ATTRIBUTABLE TO CURB

The following summary reveals that in fiscal years 1989 through the first half of 1994 CURB's activities have saved Kansas customers in excess of \$57 million in energy, commodity, usage and customer service charges. In marked contrast, CURB's combined budget for that same period was \$1,541,846.

In setting rates, the Kansas Corporation Commission ("KCC") acts as a judge. It can take action only when it has evidence to do so. The KCC, at times, accepts and acts upon CURB's evidence instead of evidence submitted by other parties. We take credit for KCC actions only when the KCC acts upon evidence submitted by CURB alone.

CURB is very conservative in its calculations. We only claim as savings those Commission-adopted adjustments that are supported solely by CURB. Thus, these numbers do not represent duplication of KCC staff efforts. As you can see, the majority of these savings benefitted all consumers.

Finally, it should also be noted that CURB is not funded by tax dollars. CURB is not funded by the State's general fund. Our budget is assessed back against the utility companies and, in turn, collected through rates from the consumers we are representing.

## FISCAL YEAR 1989

CURB Actual Expenditures: \$108,621---costs approximately 11 cents per Kansas jurisdictional ratepayer (based on 950,000 customers).

Savings for FY 1989: \$4,475,000.

### UNITED RATE CASE / DOCKET NO. 162,044

Adoption of CURB's adjustment to case working capital saved all United ratepayers approximately \$115,000 per year.

### KCPL / DOCKET NO. 166,405

As a result of negotiations between CURB and KCPL, all of KCPL's ratepayers were saved approximately \$1 million over the next two years.

### KPL GAS CASE / DOCKET NO. 158,499

CURB saved small customers \$280,000 a month in customer service charges (\$3.36 Million a year) by preventing an increase in the charge.



## FISCAL YEAR 1990

CURB Actual Expenditures: \$234,811--costs approximately 25 cents per customer.

Savings for FY 1990: \$13,932,136.

### KG&E - RIPLEY RATE CASE / DOCKET NO. 142,098

As a result of adjustments proposed by CURB (and opposed by the KCC staff) the Commission ordered KG&E to refund \$8,640,908 to all of its customer classes. In addition, KG&E's rates for all customer classes were reduced by \$8,640,908 a year. Finally, residential customers received an additional reduction of \$4,187,175 a year in customer service charges.

### UNION GAS RATE CASE / DOCKET NO. 165,541

Union Gas and the KCC staff stipulated to CURB positions as a part of a negotiated settlement. As a result, residential and small commercial customers were saved \$744,017 a year in customer service and commodity charges.

### MIDWEST ENERGY RATE CASE / DOCKET NO. 176,333

Midwest Energy and the KCC staff stipulated to CURB positions as a part of a negotiated settlement. As a result, residential and small commercial customers were saved \$360,036 a year in customer service charges.

## FISCAL YEAR 1991

CURB Actual Expenditures: \$299,704--costs approximately 32 cents per customer.

Savings for FY 1991: \$581,932 (This figure does not take into account \$8.6 million in savings CURB obtained in FY 1990, but which savings CURB successfully defended before the Kansas Supreme Court and the United States Supreme Court in FY 1991).

### KPS RATE REVIEW / DOCKET NO. 171,827

CURB saved the residential and small commercial customers of Kansas Public Service \$321,780 annually in customer service, collection and reconnection charges.

### GREELEY GAS RATE INCREASE / DOCKET NO. 170,588

CURB saved all customers of Greeley Gas Company \$260,152 in commodity charges.

### GREELEY GAS RATE INCREASE / DOCKET NO. 170,588

CURB appealed and obtained a reversal from the Kansas Court of Appeals of a KCC ruling that allowed Greeley to recover dues to out-of-state country and social clubs from its Kansas ratepayers. See Greeley Gas Co. v. Kansas Corporation Commission, 15 K.A. 2d 285 (1991).

KPL/KG&E MERGER / DOCKET NO. 172.745

By preparing a lawsuit against the KCC, CURB was instrumental in preventing the KCC from acting upon the proposed KPL/KG&E merger without conducting a meaningful review.

KG&E RATE REDUCTION / DOCKET NO. 142.098 & 164.211

CURB successfully defended an \$8.6 million KG&E rate reduction before the Kansas Supreme Court and before the United States Supreme Court. The rate reduction was initially ordered by the KCC as a result of CURB-proposed adjustments. See FY 1990, Docket No. 142,098.

## FISCAL YEAR 1992

CURB Actual Expenditures: \$304,412--costs approximately 32 cents per customer.

Savings in FY 1992: \$38,113,746 of which \$38 million will be saved over 43 years.

### KPL/KL&E MERGER / DOCKET NO. 172.745

CURB saved ratepayers \$38 million over the next forty-three years in the KPL/KG&E merger.

### GREELEY GAS / DOCKET NO. 179.484

CURB was successful in lowering the Company's tax rate from 35 percent to 31 percent, thus saving \$65,577 in taxes that likely would have been recovered from ratepayers; deleted salaries for family members who didn't work at the company, thus saving ratepayer \$44,796; and deleted dues and donations of \$3,373. Greeley also agreed not to file a rate case until the second quarter of 1993, therefore, no rate increase possible until 1994.

### UTILICORP/CENTEL DOCKET NO. 175.456

CURB was successful in having additional language included as a part of the Stipulation and Agreement in the Utilicorp/Centel merger. Prior to filing an application for any change in tariffs, UtiliCorp agreed to conduct a study to estimate that portion of accumulated deferred tax and accumulated deferred investment tax credit balances as of closing associated with Centel Corporation's ownership percentage in the Jeffrey Energy Center.



## FISCAL YEAR 1993

CURB Actual Expenditures: \$241,108--costs approximately 25 cents per customer.

Savings in FY 1993: Unable to quantify, at this time, the impact of the proposed Integrated Resources Planning Plan.

### INTEGRATED RESOURCE PLANNING / DOCKET NO. 180,056

The development of an IRP process for Kansas utilities offers the opportunity for a partnership among the Commission, its Staff, CURB, other interested parties and Kansas' regulated utilities to plan collectively for Kansas' future energy service needs through the selection and acquisition of safe, reliable, energy resources in a manner that minimizes total costs. The IRP plan presently being considered by the Commission is one that largely reflects CURB's plan submitted to the Commission. If the plan presently under consideration is eventually adopted, its implementation will result in significant ratepayer benefits--generally in the form of long-term savings.

## FISCAL YEAR 1994

CURB Actual Expenditures: (Approved for entire FY 1994) \$353,190-  
-costs approximately 37 cents per customer.

FY 1994: Through the first half of FY 1994, prevented increase of  
\$248,601 in customer service charges and obtained a 3-year rate  
filing moratorium.

### INTEGRATED RESOURCE PLANNING / DOCKET NO. 180.056

This docket is on-going from Fiscal Year 1993. CURB will present  
testimony in support of the proposed IRP plan in February, 1994.

### GREELEY GAS COMPANY / DOCKET NO. 187.731 ATMOS/GREELEY MERGER / DOCKET NO. 187.937

CURB initially proposed, in negotiations, a rate filing moratorium.  
The parties eventually agreed to a three-year rate filing moratorium.  
Consequently, Atmos/Greeley gas customers are safeguarded from a  
company request for rate increase for at least three years six months.

### TELEKANSAS (SOUTHWESTERN BELL TELEPHONE COMPANY) / DOCKET NO. 187.730

CURB has actively participated in this docket. The Commission is to  
issue a successor alternative regulatory plan to TeleKansas, under which  
SWBT is to operate. CURB has filed with the Commission, a  
recommendation that SWBT had excess earnings of \$24 million in 1993  
and will overearn that same amount in 1994. CURB has recommended that  
the Commission order SWBT to reduce its rates by at least \$24 million in



each of 1994 and 1995. Further, CURB has proposed that the Commission order a sharing plan in which ratepayers will share in any excess earnings the Company enjoys.

KN ENERGY RATE INCREASE/DOCKET NO. 186.363

Through negotiations, CURB prevented a monthly increase of \$20,716 in customer service charges for residential and small commercial ratepayers, an annual savings of \$248,601 in customer service charges.

2-17-94

URGENT FAX MESSAGE

FROM: PETE LOUX CPA  
628 SO. HIRAM, APT 101  
WICHITA, KS 67213

TELE: 316-265-0055  
FAX: 316-265-0050

TO: SENATOR BEN VIDRICKSEN  
KANSAS STATE SENATE  
TOPEKA, KS

FAX: 913-296-6718

DEAR SENATOR

YOU ARE RIGHT ON TARGET

AS A FORMER CHAIRMAN OF THE KCC FOR MANY YEARS. WITH A SOLID REPUTATION OF CONSUMER INTERESTS I HAVE NOTED LEGISLATIVE BILL TO ABOLISH THE SO CALLED CITIZEN UTILITY RATEPAYERS BOARD (CURB). YOU ARE RIGHT ON TARGET I APPLAUD YOUR EFFORTS.

CURB HAS BEEN A MISERABLE FAILURE AND SHOULD BE DISCONTINUED. IT WAS A NOBLE EXPERIMENT THAT HAS GONE HAYWIRE THAT HAS FAILED.

THE CLAIMED SAVINGS OF 58 MILLION ARE RIDICULOUS AND FALSE. AS UNBIASED REVIEW WILL SHOW ZERO THAT WAS NOT PROPOSED BY THE COMPETENT KCC UTILITIES STAFF.

TO STATE THAT SMALL RATEPAYERS HAD NO WAY TO BE REPRESENTED IS ALSO INCORRECT. ATTORNEYS REPRESENTING VARIOUS COMPETING INTERESTS ROUTINELY PARTICIPATE IN HEARING VIGOROUSLY , PARTICULARLY KANSAS LEGAL SERVICES INC.

I WOULD BE WILLING TO TESTIFY AT THE SENATE HEARING BUT I HAVE MOVED TO WICHITA TO WICHITA RETIREMENT COMMUNITY BECAUSE OF HEALTH PROBLEMS AND I HAVE AN APPOINTMENT THIS AFTERNOON MEET WITH MY NEW DOCTOR BUT I WOULD WILL AS LATER DATE IF REQUESTED. I THINK I COULD SHED SOME LIGHT ON THE ORIGINS AND OPERATIONS OF CURB.

ATTACHMENT 2

SEP. TRANS. 2/17/94



**Testimony - SB 526 FEBRUARY 17, 1994**  
**Senate Committee on Transportation and Utilities**

Mr. Chairman and Members of the committee:

I am Frank Thacher, a member of the Kansas AARP State Legislative Committee and Coordinator of the Capital City Task Force. I appear in opposition to SB 526. AARP has been a supporter of The Citizens Utility Ratepayer Board prior to, and since it was established July 1, 1989.

On January 28th and 29th I mailed each of you information supporting our position regarding C U R B and I am hopeful you have had an opportunity to examine the data. At this time I wish to stress that the millions of dollars of savings accruing to ratepayers as shown, included only those Commission adopted adjustments that were solely supported by C U R B. Other savings for ratepayers were realized when C U R B and the Commission were in accord which are not claimed. All of the savings claimed as credited to C U R B actions have been identified and verified by case document number.

Rather than take your time to review each savings individually I will simply point out that since C U R B's beginning July 1, 1989 through December 31, 1993 actual or accruing savings have been \$ 57,401, 824 against total C U R B costs of \$1,541,846 for a net return in savings to the ratepayer of \$ 37.23 for each dollar of cost.

Some contend, that the savings claimed by C U R B are really savings generated by the Commission but, examination of the documents recording the facts of the cases, in which C U R B takes credit for the savings, simply do not support that contention. The thought that the KCC does not place value in the information supplied by C U R B in rate case decisions is negated by the response of Brian Moline, KCC Counsel, to a question from Nick Haines of Kansas Public Radio during a broadcast February 7th in which he told Haines they did not want to take sides on the issue of C U R B and did not want to comment on whether the utility companies would actually benefit if C U R B were abolished. Then Moline went on to say " I can only say that they have contributed and contributed a lot to this process since they have been in existence, and I wouldn't want to speculate as to who might benefit, or not benefit, if they weren't around." Those words appear to me to be a strong acknowledgment of the contribution C U R B has made to protecting ratepayer interests.

AARP has but one interest; that the rate setting process be monitored so the interests of all Kansas residential and small commercial ratepayers be protected by competent, knowledgeable counsel as are the interests of large commercial users through counsel they are able to afford.

I request that you consider this issue by examining the facts that have been presented and are verifiable and to see if you don't agree a return of \$37.23 for each dollar invested is a magnificent return on the investment made by the ratepayers. The residential and small ratepayers look to their elected legislators to protect their interests, they have no other place to turn. Please support them in this instance by voting no on SB 526.

Thank you,

  
Frank E. Thacher

ATTACHMENT 3

SEN. TRANS. 2/17/94

3-1



Testimony of Steven Hamburg  
Senate Bill 526  
Committee on Transportation and Utilities  
February 17, 1994

I want to thank Senator Vidrickson and the rest of the Committee on Transportation and Utilities for the opportunity to testify concerning Senate Bill 526, which calls for the abolishment of the Citizens Utility Rate Board (CURB). My name is Steven Hamburg. I am a resident of the Pinckney Neighborhood in Lawrence, and I would like to speak in opposition to the bill on behalf of myself and the Pinckney Neighborhood Association. Over the past two years, we have had the opportunity to work very closely with CURB in order to get our concerns about the placement of a high-tension line in our neighborhood heard. I think that without a doubt, CURB played a critical role in the resolution of our siting issue. CURB allowed the neighborhood to effectively operate within the quasi-judicial framework of the Kansas Corporation Commission (KCC).

The Kansas Corporation Commission is not user-friendly. Despite what might be the intentions of the enabling legislation, it is next to impossible for an average citizen, no matter how well informed, to effectively impact the KCC decision making process. From our experience the only hope that the citizens of Kansas have for being effectively heard before the KCC is through the efforts of CURB. CURB's knowledge of the rules and procedures make it possible for someone with their assistance to penetrate the KCC's corporate perspective. CURB's lawyer worked tirelessly on our behalf, spending the time to educate us and assist us in navigating the complex waters that any utility issue involves.

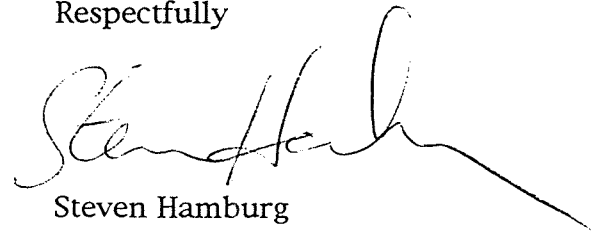
CURB provides the average citizen with an effective voice with respect to utility management and utility rates in the State of Kansas. CURB's existence reassures the citizens of Kansas that government is here to serve them, rather than the exclusive interests of corporations. CURB provides the access and the voice that

the current KCC system fails to provide. Maybe the KCC is supposed to represent all segments of society, but the reality is that it doesn't, and accordingly CURB is all that more important. As someone with extensive knowledge and experience with large bureaucracies, I should have an easier time interacting with the KCC than most citizens of the State, yet I found its rules archaic and procedures clearly slanted to assist corporate applicants in meeting their goals. The KCC is simply next to impossible to effectively deal with. Without the help of CURB we would not have effectively penetrated the protective shell the KCC has erected. If your intention is to silence the public voice, pass Senate bill 526.

If this committee is interested in the citizens of Kansas, expand the resources available to CURB. Even if the KCC undergoes the reforms necessary to make itself more accessible, the need for CURB will remain in order to insure that the public's voice is heard.

If you want to effect positive change, fix what is broken, not what works. CURB helps the average citizen and plays an important role as gadfly on behalf of us all. Lets make sure that in the future there is a balance between corporate and public interests. This balance was totally lacking prior to the creation of CURB, and is still sorely out of kilter. The people who work at CURB accomplish Herculean tasks daily with their limited resources. There is no fat in the CURB budget, and as a result there is a lot of bang for the buck. CURB provides the average citizen a reasonable shot at due process before the KCC and fights for reasonable utility rates for all of the citizens of the State.

Respectfully



Steven Hamburg

401 Indiana

Lawrence, KS 66044

TESTIMONY BEFORE THE HOUSE TRANSPORTATION AND UTILITY COMMITTEE  
SENATOR BEN VIDRICKSEN, CHAIRMAN

OPPOSITION TO SENATE BILL 526

Good morning, Senator Vidricksen and members of the Committee. I appreciate this opportunity as a consumer to appear before you in opposition to Senate Bill No. 526, which abolishes the Citizens' Utility Ratepayer Board, called CURB.

It is puzzling to me that this issue has, once again, been presented to your Committee. A review of CURB was made by your committee in 1991, as required, and CURB was continued based on activities, small commercial and residential utility review activities, which had been deemed consumer oriented and necessary. Because those activities continue in the same way, currently, there does not appear to be any need to abolish a supportable CURB program based on the conclusions of the last review, one that was a required one, not as this one, initiated without statutory requirement.

This is not to say that agency reviews are not welcomed in state budgeting. On the contrary, as a taxpayer, I appreciate, as do others, the legislature's interest in public savings. But CURB is not tax supported, as



you know. It is a fee generated support function for residential consumers and small commercial consumers.

I would like to submit to you information from a report titled "Savings and Impacts Attributable to CURB":

....in fiscal years 1989 through the first half of 1994 CURB's activities have saved Kansas Consumers in excess of \$57 million in energy, commodity, usage, and customer service charges. In marked contrast, [during this 66 months], CURB's operations cost no more than \$23, 348 per month for professional and clerical staff and office overhead. These savings were primarily linked to CURB's direct activities.

Those activities of CURB include the following:

1. Review of residential rate increases, deemed unreasonable or inappropriate by CURB, and recommendations to the Kansas Corporation Commission not to grant such measures.
2. Representation of the residential consumer by CURB, as contrasted with the function of the Kansas Corporation Commission, which is entrusted with a wide, broad, public service oversight not specifically residential. CURB makes the consumer advocate function more equal and fair in the absence of expensive litigation resources. Large utility company

reviews would otherwise find the residential consumer in the background, absent of specific consumer representation.

3. We note the expenditure, by CURB, of an average of 37 cents per year per consumer for CURB's operation, a minimal amount paid by consumers themselves as part of their utility bill, for their protection.

The point should also be made that CURB claims savings only where the Commission "acts on evidence submitted by CURB" in its consumer protection and oversight activities.

Since CURB is not funded by tax dollars, there should be support of its continuation in its role as a supporter of the consumer's point of view.

Today, legislative efforts are under way by a Kansas telecommunications utility to achieve virtual deregulation, which would allow that utility unchecked profits and an unreasonable rate of return in the light of a plus 2 percent inflation rate nationally. I do not object to profits, where reasonable, because I am also a stockholder.

The democratic representation of the CURB Board, at least one from each congressional district, is noteworthy, as required by the original bill, House Bill 2439, passed in the 1991 session.

Finally, and in summary, CURB is an important part of the democratic process in state government. Thirty-eight states have this kind of consumer advocacy built into the corporation commission utility reviews. We need to keep CURB. Thank you very much.



**TESTIMONY**  
**BEFORE THE SENATE TRANSPORTATION & UTILITIES COMMITTEE**  
**FEBRUARY 17, 1994**

The Citizens' Utility Ratepayers Board (CURB) is one of the most valuable agencies we have in Kansas. It more than pays its own way as it represents residential and small business utility ratepayers in the regulatory process and in court appeals. CURB is essentially a banding together of residential and small business ratepayers who otherwise would not be able to afford such legislation.

CURB investigates and represents small ratepayers in dozens of cases every year, in most cases saving them money. For example, in the case involving the merger of Kansas Power & Light (KPL) and Kansas Gas & Electric (KG&E), approximately \$38,000,000 in savings are projected resulting from CURB recommendations. The savings amount to an average annual savings of \$950,000 as compared to the current CURB budget of \$300,000. Not counting any other savings generated by CURB and assuming the budget remains about the same, the return on investment in this case would be 216%.

One misconception which seems to be prevalent about utility regulation is that the Kansas Corporation Commission (KCC) represents all interests in a rate case. Such is not necessarily the case. The KCC is a quasi-judicial agency, hearing evidence and making a decision. Before CURB's existence, only utilities and large corporations were heard before the Commission because testimony, in a technical hearing, has to be presented by an attorney. Members of the public cannot appear in technical rate hearings. Residential and small business ratepayers had no way to be represented. Therefore, if small ratepayers are not heard, then their interests are not necessarily taken into account. It is obvious from the benefits produced by CURB that the KCC earlier did not always take small ratepayers' interests into account.

CURB is now operating with one attorney with a second being sought. For the first 5 years of CURB's existence, it had by legislative mandate only 1 attorney. These one or two attorneys must do the work commensurate with dozens of utility lawyers and KCC legal staff. All of these utility and KCC expenses are paid by the ratepayers, not the utility stockholders. We fought the Revolutionary War over taxation without representation. CURB attorneys have a much larger work load than do utility attorneys. They should be commended for their dedication.

Utilities seem to work constantly to undermine CURB because utilities prefer to have only their own point of view presented. CURB does not duplicate the work of the KCC; it represents the small ratepayers in order to come closer to a level playing field. CURB has definitely caused rate increases to be tempered, a situation that never existed before CURB. The very reason that utilities oppose CURB is that the utilities prefer to have only their testimony presented.

It seems almost unbelievable, but it is a fact that ratepayers funds are used to pay utility lawyers to raise small ratepayer rates. It is on the way to being fair for a small portion of these assessments on ratepayers be used for their own representation. How anyone can deny that is beyond belief.

Nearly all 50 states have an agency similar to CURB, many with a much larger staff. CURB operates with a volunteer board and does not have paid lobbyists to contact legislators, as the utilities do. And lobbying costs are included in the rate base so we pay for them to work against us. Therefore, interested citizens such as myself must speak up. The small utility ratepayers of Kansas need CURB!!!

Margaret J. Miller, 6807 E. Bayley, Wichita KS 67207-2613, (316) 686-2555

ATTACHMENT

SEN. TRANS. 2/17/94



: CHAIRMAN BEN VIDRICKSEN & MEMBERS  
OF SENATE TRANSPORTATION & UTILI-  
TIES COMMITTEE

FROM: MARGARET W. BANGS  
944 ST. JAMES  
WICHITA, KS 67206

CURB must be doing a superb job. It must be effectively fulfilling its mandate: to give small utility customers representation in the utility regulatory process. Were it not, the utilities who fought to prevent CURB's enabling legislation would not now be trying to abolish it.

Many are unaware that since it was created by the legislature in 1989 CURB has saved nearly \$58 million for small ratepayers at a cost of \$1.5 million. This means approximately \$33 million was saved for ratepayers for every dollar spent by CURB. This is money that small ratepayers would have had to pay without CURB. And it must be emphasized that these savings attributed to CURB, only apply to KCC actions taken upon evidence submitted by CURB alone.

It must also be emphasized that CURB is not funded by state tax dollars. Its budget is assessed back against the utility companies and, in turn, is collected from the small residential and business customers whom CURB is representing. No state monies are used to fund CURB. Instead, residential and small business utility customers themselves spend what is small change each year to be represented when cases amounting to millions, even billions--are decided by the KCC.

Before CURB, residential and small business customers were not represented, but they were footing the bills for lawyers, consultants, rate analysts, etc. whom the utilities brought in to help in their cases to raise rates for their customers. The irony of it! It is a cost of business which utilities could pass on to their customers. Moreover, all ratepayers pay for the millions required to run the regulatory process at the KCC. So it is only fair that small ratepayers should be allowed representation in a process that they are paying for. Assessment without representation was blatantly unfair. This was the process before CURB.

This committee needs to know that CURB has also improved consumer protection in areas such as security deposits, utility collections and disconnection practices.

Probably one of CURB's most important contributions this past year was its part in the hearings held on Integrated Resource Planning at the KCC. In the last twenty years dramatic improvements have been made in improving efficiency in energy requirements for lighting, electric motors, super efficient gas furnaces, air conditioners for home and office. The IRP hearings have considered the best energy options for Kansas ratepayers. Kansans now spend approximately \$2.5 billion, an average of \$1000 per person each year, for electricity and natural gas. If IRP could result in just one percent in savings for electricity and gas, that would provide all ratepayers an annual savings of \$25 million.

CURB has played a key role in submitting a proposed IRP rule to the KCC. This CURB rule, in large part, has been adopted as the working model. Thirty three states have already adopted and implemented IRP processes; and Kansas is one of seven other states on the verge of adopting an Integrated Resource Plan. One of these is Missouri which is a few months ahead of the KCC in this process.

CURB has accomplished remarkable things on a shoe string budget. Instead of abolishing CURB, the legislature should be increasing CURB's budget and authorizing another lawyer for CURB. The legislature should appreciate CURB's accomplishments.

*Margaret W. Bangs*  
316-6825763

ATTACHMENT 7

SEN. TRAVS. 2/17/94

Thank you for allowing me to be here today to speak to you in opposition of Senate Bill 526. My name is Linda Weir-Enegren. I reside at 10725 W Central in Wichita where I am the owner of L S Industries, a manufacturing company which markets its products both nationally and internationally. I am Senator Harris' constituent.

It was my privilege to serve, at the request of former governor Mike Hayden and KCC Chairman Keith Henley, as the first chairman of CURB. In this volunteer position I was charged with the responsibility of leading the board, hiring and supervising the staff, and seeing that the interests of all residential and small business ratepayers of Kansas were well represented in any matter which was regulated by the KCC. It was an awesome responsibility to breathe life into this fledgling agency. I soon discovered that there was much work to be done and very few resources with which to do it.

By the time my tenure ended it was the opinion of the board that we had been doing so much for so long with so little that, as a group, we were qualified to do everything with nothing. Those were busy days. Because of time limitations, I would like to describe very briefly, some of the more important accomplishments.

Of course, there were the savings to consumers. In all, CURB has saved consumers \$57 million. These numbers can be substantiated by comparing the savings ordered by the KCC following rate

ATTACHMENT 8

SEN. TRANS. 2/17/94

8-1



hearings to the evidence in the order to which they tied their decision. The KCC is a quasi-judicial body which is required by law to base its decisions on rates on evidence which was presented during the hearing. If no one is there to present evidence specifically on behalf of residential and small business ratepayers, then the KCC can not find in their favor.

The role of the KCC in the rate setting process has been clearly laid out in a decision by the Kansas Supreme Court. According to that decision it is the role of the KCC to balance the interests of all parties, not to advocate on behalf of any group. In a hearing where the utility's point of view is presented, and the KCC staff's balanced view is presented, but no evidence is presented on behalf of the ratepayer, the "middle" or compromise position will be dramatically altered. It is imperative to good rate making to tell the whole story. That is what CURB does.

CURB always has been diligent in looking after the interests of consumers. In one Greeley Gas hearing, Greeley included in its cost of doing business the country club dues of its owners who reside in Colorado. It was Greeley's position that it was the responsibility of hard working people in western Kansas to pay their dues in the Denver Quarterback Club, the Garden of the Gods Club and others as well. Unfortunately the KCC agreed with them, so CURB appealed the decision of the KCC in court and won on behalf of Kansans.

Another time we became involved in a ratemaking issue which was specific to the Boeing Company. Boeing is a very powerful company and it was not easy for us to take a position on this. Here was the situation: Boeing, because it uses so much electricity wanted a cheaper rate or else they planned to generate their own electricity. Their costs had gone up because like everyone else they were helping to pay the capital costs of the Wolf Creek Plant. We understood that large users of electricity might get discounts. We understood that consumers were better off if Boeing did not leave the system. The problem was that KG&E's position was that if Boeing paid less, other consumers would automatically pay more. We weren't certain that this was the right of the utility company to command. That is why we got involved. The outcome was that we received the ruling that this could not be automatically considered the responsibility of ratepayers. We then were able to build a case for a refund of several million dollars for KG&E customers on that ruling in another unrelated case.

As he became convinced gradually that CURB was a caring and competent agency my friend and neighbor and your former colleague, Senator Bill Morris authored the bill that gave permanence to CURB. He and I both were proud of CURB and of its service to ratepayers.

I am a Republican and I have over the years worked hard for my

party. I also am a businessperson who has enjoyed great financial success in what I have undertaken. But I always am surprised when I hear the comment that our government should be run like a business. I run my business by exclusion. If someone is not smart enough or strong enough to help me meet my goals, they don't stay. That is how most businesses are run, and succeed, by exclusion. That is fine for private enterprise. After all it is my name on the line at the bank.

But that is not the role I would have my government take. A democracy is not about exclusion but, rather, about inclusion of all of its citizens, the small and the weak as well as the smart and the strong. CURB speaks to that role. CURB is the vehicle and the only vehicle through which small ratepayers can make their voices heard. I am proud to have been a part of that process and proud of the role I played in establishing CURB. I consider it a privilege to have been a volunteer for the state of Kansas. Thank you for taking your time today to be here for them too.

# BOB EYE FOR GOVERNOR

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February 17, 1994

## BOB EYE ANNOUNCES SUPPORT OF CITIZENS' UTILITY RATEPAYERS BOARD

Bob Eye, Independent candidate for Governor, testified today before the Senate Committee on Transportation and Utilities and urged it to reject a bill which would abolish the Citizens' Utility Ratepayers Board (CURB).

CURB represents residential and small commercial ratepayers in cases before the Kansas Corporation Commission (KCC). The KCC is responsible for setting utility rates in Kansas.

"Residential and small commercial ratepayers can get steamrolled by utilities and industrial interests in rate cases. The result is that smaller ratepayers pay higher rates than they should. If CURB is abolished, smaller ratepayers will be on their own and that likely means higher rates for residences and small commercial establishments," Eye said.

"CURB has saved ratepayers approximately \$57 million dollars at a cost of only about 35¢ per year per consumer. That's a sound investment of taxpayer money," Eye stated. "I doubt very many government agencies can demonstrate that kind of performance when it comes to protecting the public's interest," Eye continued.

Eye's law practice has included representing residential and small business ratepayers in cases before the Kansas Corporation Commission.

## FOR IMMEDIATE RELEASE

For more information, please contact: Owen de Long, Media Coordinator,  
at (913) 232-0464.

Paid for by Bob Eye for Governor  
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ATTACHMENT



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February 17, 1994

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## TESTIMONY REGARDING SB 526 BEFORE THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

ROBERT V. EYE

Senate Bill 526 represents a major step backward in the protection of residential and small commercial ratepayer interests in Kansas. The Citizens' Utility Ratepayer Board (CURB) has proven to be a cost effective means of assuring that residential and small commercial ratepayers have the means to participate in the establishment of utility rates and policy. Without CURB there would be no systematic means of representing these ratepayers in the various proceedings before the Corporation Commission. Consequently, ratepayers without representation cannot expect to have their interests articulated or protected.

CURB was established in the wake of the Wolf Creek rate case. In that case, I had the privilege of representing the Alliance for Livable Electric Rates (ALERT) which was comprised of over six hundred small and medium-sized businesses in the KG&E service territory. This *ad hoc* organization played a major role in the rate case and helped shape the outcome of the final order and the judicial appeal that followed. While ALERT could be justifiably proud of its efforts, it was unrealistic to think that it could continue to raise the necessary money to have an ongoing presence in future proceedings. CURB filled the void.

Some may argue that the interests of ratepayers are protected by the Corporation Commission. In a very general sense this may be valid, but this assumption has flaws. First, as has been noted by others, the commission is charged with balancing the interests of competing parties, i.e., jurisdictional utilities and ratepayers. The proceedings in which this balancing takes place are adversarial in nature and you can rest assured that the utilities will have a battery of lawyers and appropriate support staff to represent their interests. The Corporation Commission must base its decisions on evidence; if ratepayer interests are not included in the evidence of a particular proceeding, it is likely that orders will be skewed in favor of utilities.

Second, rate design issues frequently pit large industrial customers against small commercial and residential ratepayers. Large industrial customers have the resources to hire lawyers and experts to persuade the Commission to shift costs to other

ATTACHMENT 9

SEN. TRANS. 2/17/94

9-2



ratepayers. Again, if residential and small commercial interests are not included in the evidence, rate design orders will likely favor large industrial customers.

Third, the Corporation Commission is not infallible. Even when the professional staff of the Commission has a well-founded belief that an order of the Commission is in error, the staff cannot appeal it; however, CURB can. Eliminating CURB assumes that the Commission can achieve the proper balance between all ratepayer classes and the jurisdictional utilities. If this assumption is wrong, ratepayers unrepresented in commission proceedings pay the price through unfair or unjustified rates.

Fourth, the sheer magnitude of some rate case proceedings require that the Commission staff allocate its limited resources to issues other than those which impact small commercial and residential ratepayers. The Wolf Creek case is illustrative in this regard. ALERT presented evidence specifically intended to show how increased rates would affect various businesses, including small manufacturers and dairy cattle operations. Given the resource constraints of the Commission, it is simply not realistic to assume that the interests of such ratepayers will be taken into account when final orders are made.

Some might argue that CURB is simply another bureaucracy the elimination of which would actually be beneficial to taxpayers. However, taxpayers are also ratepayers and for a truly nominal sum the utility rate and policy playing field is made more fair.

Perhaps the elimination of CURB ought to be contemplated when utility service is deregulated and made truly subject to market forces. My sense is that such a time could be in the foreseeable future. However, until such time, residential and small commercial ratepayers deserve the effective representation which CURB provides.

Thank you.



Mr. Chairman & Committee  
members - my name is Kelly,  
Sergeant of Newton & I am a  
Board member of CVRB.

Being appointed in July  
I am learning of its past-  
living its product & excited about  
its future work to come.

I do not lie or play games  
for anyone - I wouldn't be  
part of this if it didn't represent  
the people & help in that way  
it does.

To abolish CVRB would  
be to abolish the voice of the  
people - everyone pays utility  
rates in one way or the  
other. Ratepayers & small  
businessmen have a right to have  
a voice in this process & I  
am very proud to be a member  
of the Board that is doing  
just that for them.

Do you have any questions?

"Thank You"

Mr Chairman Members of the Committee.

My name is Sue Johnson Giles, the CURB Chairperson. Thank you for this opportunity to testify today.

CURB is not and I stress not a duplication of the K.C.C. Yes, we address some of the same issues, times we agree, then times we differ. When CURB agrees, we do not oppose the KCC or the KCC staff. Now, when we differ, we represent our constituents, the Kansas utility ratepayers in their best interest. This is our main objective. Then CURB takes what means needed to achieve this.

You must understand CURB is the only appealing agent to a final KCC order. Most ratepayers are unable to achieve this appeal due to various reasons. A few are:

1. Legal knowledge and education,
2. Financial,
3. Time, and
4. Knowledge of utility accounting and operation process.

The CURB Budget and staff are small compared to other state consumer advocate offices. Our budget is NOT part of the general budget but an assessment of the utility companies.

The ratepayers portion is minimal. As to my knowledge, the ratepayers haven't objected to their portion.

We feel deeply CURB watches out for the best interest of all the Kansas  
Ratepayers, not just a few.

Please oppose SB 526.

Again, thank you.



2-17-94

La Von Krusenberg - 1st District

Thank you - Mr. Chairman & Committee Members.  
It's a real honor to serve on the  
Citizens Utility Ratepayers Board. I'm a  
longtime housewife and mother  
of nearly **39** years. I know the  
challenges of a monthly budget that  
includes house payments, taxes, utilities  
and the like.

It's been a real privilege to be  
on this board and made aware of  
CURBS aims and goals. Perhaps  
Attorney General Robert Stephan said  
it best to me in a November 3rd letter.  
I quote: "The Citizens Utility Ratepayers Board  
has been of great service to consumers in our  
state and it would be a pleasure to be  
supportive of the continued work of this  
important Board." - I believe that  
says it about as good as it can  
be said. Thank you for your  
consideration.

La Von Krusenberg

I am Arris Johnson of Hays and I thank you for the opportunity to speak in favor of retaining the Citizens' Utility Ratepayers Board. To eliminate CURB would be to take away the voice of the common citizen. A summary of CURB's record since 1989 indicates that it has saved the Kansas citizen over fifty-seven million dollars. Through CURB activity an additional \$38 million dollars will be saved over the next 43 years, and this in addition to the year-by-year activity which would be accomplished by CURB. CURB is not funded by tax dollars but is funded by assessing cost back against the utility companies and paid by the customer. CURB board members are volunteers, not paid for their services, and are composed of five consumer members, one from each congressional district, and an at-large member. The 57 million dollars plus in savings was accomplished at a total cost of approximately one and a half million dollars, or at a return of \$37.23 for each dollar spent.

Senate Bill number 526 asks that "all records, books, memoranda, writings and other property of the citizens' utility ratepayer board shall be and hereby are transferred to the state corporation commission." There have been instances where CURB and the KCC were not in agreement and the customer would have come up short were it not for CURB. In the case of Kansas Gas and Electric-Ripley/Docket No. 142,098, the adjustments proposed by CURB were opposed by the Kansas Corporation Commission staff. But the Commission did order KG&E to refund \$8,640,908 and residential customers received an additional reduction of \$4,187,175 a year in customer service charges. There have been two other cases where CURB and the KCC were not in agreement (Greeley Gas Rate Increase/Docket No 170,588 and KPL/KG&E Merger/Docket No. 172,745). These cases would seem to indicate that to lose CURB and to rely solely upon the KCC to protect the interests of the customer would be wrong. The total amount saved by the customer in these cases, both at the time, and in future savings (KPL/KG&E Merger/Docket No. 172,745) amounts to over 50 million dollars.

TESTIMONY OF KATHRYN LEMOSY  
BEFORE THE  
SENATE TRANSPORTATION AND UTILITIES COMMITTEE  
OPPOSITION TO SENATE BILL 526  
February 17, 1994

Good morning! I am Kathryn LeMosy, a resident of Topeka.

I would like to speak in opposition to Senate Bill 526 which would abolish the Citizens' Utility Ratepayers Board (CURB).

In my adult years I have lived in eight states, several of them more than once. Some have had utility advocacy boards or agencies; some have not.

In the mid 1970's while living near Charlotte, NC, known, usually, for its mild, short winters and located near a major natural gas pipeline, our winter gas bills, electricity not included, were approximately \$400 per month. We closed off most of the house choosing to live in one area in order to bring down the heating cost. The effort was fruitless. Though I confess that I was not savvy enough to look into the high rates, I assume North Carolina has no organization standing at the fulcrum between the utility company and the consumer.

After hearing about SB 526, I smartened up and checked into CURB. I learned that CURB has saved ratepayers millions of dollars since its inception five and one half years ago. It represents my interests before the Kansas Corporation Commission (KCC) or in court, when necessary, in rate cases. It is charged with balancing the interests of the utility companies and their consumers, the public.

My experience in Kansas has been that rates seem reasonable and fair. When I have had a question, CURB has usually already been at work to control excessive profits and keep rates down for ratepayers.

At my church and in my work I have met many people, like myself, on fixed incomes. It is quite a struggle to pay utilities plus unreasonably high medical and pharmaceutical expenses. I know personally people who have paid their utility bills in preference to medications or food which they desperately need. This seems to be "the way" of those old enough to have lived through the Great Depression.

We, the powerless -- all those financially struggling citizens of our state - need CURB. Please do not take away this protection. I ask that you vote "no" on SB 526.

Thank you!

Testimony before the  
Senate Committee on Transportation and Utilities

February 17, 1994

by

Debra R. Leib  
Executive Director, Common Cause of Kansas

Mr. Chairman and members of the Senate Committee on Transportation and Utilities, my name is Debra Leib and I am executive director for Common Cause in Kansas. I want to thank you for the opportunity to testify on Senate Bill 526, which would abolish the Citizens' Utility Ratepayer Board on July 1, 1995.

Common Cause is a nonprofit, nonpartisan citizens' lobbying organization that works to make our government more open, accountable and accessible to ordinary men and women. We have over 2,100 members in Kansas and our state board includes members from Dodge City to Overland Park and from Marysville to Wichita.

Common Cause has long advocated the importance of citizen participation and representation in the decision-making process. The Citizens' Utility Ratepayer Board was created by the Legislature five years ago making Kansas one of 38 states to affirm the need for, and value of, consumer advocacy in public utility matters.

Since its inception, CURB has effectively represented the state's residential and small business ratepayers in dozens of utility rate cases. During this time, CURB has saved Kansas ratepayers over \$57 million dollars at a cost of \$1.5 million. In addition, CURB has been instrumental in improving consumer protection in areas such as security deposits, utility collection and disconnection practices.

Common Cause encourages this Committee to act on behalf of the consumers of Kansas -- your constituents -- and enable CURB to continue to provide the needed voice on utility issues to ensure fair and equitable treatment for all utility customers.

Again, thank you for the opportunity to testify on this bill.



Statement of

Randal Loder

In Opposition to Senate Bill 526

To Senate Transportation and Utilities Committee

Ben Vidricksen, Chair

February 17, 1994

Mr. Chairman and members of the committee, my name is Randal Loder. I appreciate the opportunity to appear before you this morning and speak in opposition to S.B. 526, a bill to abolish the Citizens' Utility Ratepayer Board (CURB). I farm near Garden City, and from the origination of CURB in early 1988 until my term expired last July, I had the privilege of representing the utility ratepayers of the First Congressional District on the Board.

Although a full schedule of meetings led me to initially decline being here to share my views with you today, the attached article from the Lawrence Journal-World caused me to clear my schedule.

Mr. Chairman, with all due respect for your opinion, and while I'm sure no malice was intended, this is a terribly unfair and inaccurate characterization of the efforts of the volunteer board members, the dedicated staff the board has employed, and those groups and individuals that have worked so diligently to

ATTACHMENT 16

SEN. TRANS. 2/17/94

16-1

to make effective citizen participation in the utility regulatory process a reality for the residential and small business utility customer.

In a nutshell, CURB provides for the utility customers it represents in the regulatory process, cost effective and efficient legal and technical representation. They have brought access and openness to a necessary function of state government, and I marvel at the logic of those who would have us think this is something that the citizens of Kansas should be protected from.

In speaking with legislators about CURB over the last 6 years, two things invariably come up. The first being, "isn't CURB awfully expensive?"

I can only tell you that as a businessman who must analyze risk versus reward on a regular basis in order to stay efficient and competitive, I find the record that CURB has established, to be an outstanding value.

You must also realize that not all of the budget of CURB represents new spending. The news release announcing the creation of the Board reveals that the Consumer Counsel filled a vacant upper-level attorney position, and that upon the creation of CURB, the former Consumer Information Board was disbanded by the KCC. (see KCC News, 88-1, January 7, 1988, attached).

The second comment I frequently hear is, "if the KCC was doing its job we wouldn't need a CURB."

While that sounds plausible, it just isn't factual. It blurs the distinct and separate functions of a multi-faceted process

that is predetermined by statutory requirements and judicial precedents.

The three member commission performs a quasi-judicial role in issuing orders in rate and other matters based on the evidence presented before it.

The Commission staff audits, investigates, and/or reviews the matters that come before the Commission issuing their findings of what, in their opinion, is best for all classes of customers from the smallest to the largest. They serve many masters. Those opinions are seldom deemed adequate for the interests of many of the larger customers, and these customers frequently employ their own legal and technical experts to further their own interests.

There is no proposed legislation that would block them from using additional resources to present their views on matters before the Commission.

This bill would in effect prohibit small business and residential customers from having advocates for their interests fully involved in the process. It would destroy the balance that CURB provides and that's neither fair nor reasonable.

Perhaps former KCC Commission Chairman Keith R. Henley put it best when he said, " I have always felt very comfortable with the KCC's efforts in protecting the interests of residential and small commercial ratepayers. However, the commission also recognizes that the regulatory process can only be enhanced by having a voice that speaks solely for these ratepayers."

"This expanded consumer representation, along with minimal costs to ratepayers, makes this an ideal arrangement for residential and small commercial ratepayers in Kansas."

Thank you.

Randal K. Loder

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or

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ATTACHMENT 16

SEN. TRANS. 2/17/94

16-4





# KCC NEWS

## KANSAS CORPORATION COMMISSION

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Topeka, Kansas 66612

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January 7, 1988 (for immediate release)

### KCC CREATES CITIZENS' UTILITY RATEPAYERS BOARD; CONSUMER COUNSEL TO REPRESENT RESIDENTIAL AND SMALL COMMERCIAL RATEPAYERS

TOPEKA -- Kansas Corporation Commission Chairman Keith R. Henley today announced the creation of the Citizens' Utility Ratepayers Board (CURB) and the Office of the Consumer Counsel, which will represent residential and small commercial ratepayers in utility proceedings before the KCC.

CURB and the Office of the Consumer Counsel are being created by Henley with the support of the office of Kansas Gov. Mike Hayden.

#### CURB

CURB will be composed of five consumer advocate members, one from each of Kansas' five Congressional districts, who will serve staggered four-year terms. The board will be appointed by Henley later this month. Henley will also appoint the CURB chairman and vice-chairman.

CURB will meet at least four times annually. Tentative plans call for CURB to conduct its first meeting in February.

CURB's main function will be to hire and guide the activities of the Consumer Counsel.

#### CONSUMER COUNSEL

The Consumer Counsel will be a full-time attorney who will represent residential and small commercial ratepayers before the KCC. The Consumer Counsel may function as an official intervenor in cases filed with the KCC, including rate increase requests, or may initiate action before the KCC. The attorney will also represent residential and small commercial ratepayers which file formal utility complaints with the KCC, or may intervene in other formal complaint cases which could affect these ratepayers. The counsel will have the full cooperation of the KCC technical staff.

The Consumer Counsel will handle electric-, gas-, telephone- and water-related matters. The counsel will be involved with matters concerning electric cooperatives that sell power wholesale, such as Sunflower Electric Cooperative and Kansas Electric

ATTACHMENT 14

SEN. THANS. 2/17/84

15-5

Power cooperative, and large retail cooperatives, such as Midwest Energy. The counsel will not be involved with matters concerning small retail rural electric cooperatives. The counsel will fill a vacant upper-level attorney position in the KCC budget.

The position pays an annual salary of between \$30,000 and \$35,000. Tentative plans call for the position to be filled by April 1. The counsel will be hired by Gov. Hayden and the CURB chairman.

#### KEITH HENLEY'S COMMENTS

Henley said the KCC developed the plan after a Consumer Utility Ratepayers Board task force failed to agree on a recommendation to Gov. Hayden concerning a system that would provide regular and ongoing consumer representation in the utility regulatory process. Gov. Hayden appointed the task force last spring and asked for a recommendation by Jan. 1, 1988, that would receive legislative consideration. The group disbanded Oct. 26, 1987, after failing to agree on a proposal. The funding method for a permanent CURB and Ratepayers' Advocate Office was the main area of disagreement.

Henley said the new CURB and Consumer Counsel would cost ratepayers much less than the possible \$600,000 in annual assessments against the state's utilities that was part of one plan considered by the governor's task force. Basically, ratepayers will now incur only the Consumer Counsel's salary, which was already part of the KCC's budget through the vacant attorney position, and some administrative costs. The KCC's regulatory functions concerning the state's electric, gas, telephone and water utilities are funded through assessments against the companies.

"I have always felt very comfortable with the KCC's efforts in protecting the interests of residential and small commercial ratepayers," Henley said. "However, the commission also recognizes that the regulatory process can only be enhanced by having a voice that speaks solely for these ratepayers.

"This expanded consumer representation, along with minimal costs to ratepayers, makes this an ideal arrangement for residential and small commercial ratepayers in Kansas," Henley concluded.

#### DISBANDMENT OF THE CONSUMER INFORMATION BOARD

With today's action the KCC disbanded the Consumer Information Board (CIB), whose activities it has coordinated since the board's creation in 1979. The CIB, composed of 25 Kansans representing various organizations and agencies, was created to increase public participation in the regulatory process and to communicate consumer concerns to the KCC.

Henley said the new CURB and the CIB would duplicate efforts if both remained in existence, and that residential and small commercial consumers now have a permanent board and office to which they can express their concerns.

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Sound Off 2B  
Access poll 2B  
Deaths 3B  
Editorials 10B

## LAWRENCE &amp; STATE



WEDNESDAY, FEBRUARY 9, 1994

# Bill to end utility board criticized

• **Lawrence legislators** and some residents aren't happy about an attempt to eliminate a state board that works on behalf of ratepayers.

By TIM CARPENTER  
JOURNAL-WORLD WRITER

TOPEKA — Sen. Ben Vidricksen wants to curb the Citizens' Utility Ratepayer Board.

"The whole thing in a nutshell is: What do they do? The answer is nothing," Vidricksen, R-Salina, said in an

interview Tuesday at the Statehouse.

Vidricksen, chair of the Senate Transportation and Utilities Committee, sponsored a bill that would abolish the board, known as CURB, in 1995. He set a Feb. 17 hearing on the bill.

CURB was created by the Legislature five years ago to work on behalf of Kansas utility customers. The board's budget, \$350,000 last fiscal year, is paid by utility companies and customers.

Rep. Betty Jo Charlton, D-Lawrence, and Sen. Sandy Praeger, R-Lawrence, said Vidricksen's plan was a bad idea.

**"Utilities have their lawyers. Without CURB, nobody is there advocating for consumers,"** said Charlton, who supported legislation that created the board.

Praeger said the Legislature shouldn't eliminate a board that gives ordinary citizens access to the regulatory process.

**"Consumers need more — not fewer — opportunities to be heard,"** she said.

Typically, CURB submits evidence to the Kansas Corporation Commission on rate adjustment proposals made by utility companies. KCC sets rates based on

input from KCC staff, utility companies and CURB.

CURB takes credit for saving Kansas customers in excess of \$57 million in energy, commodity, usage and customer service charges in its five years of existence. CURB's combined budget was \$1.5 million for that same period.

Steven Hamburg, Lawrence, said the effort to wipe out CURB was an effort by Vidricksen and big business interests to reduce the power of the average person.

**"It is not coincidental that Vidricksen gets money (campaign contributions)**

from large utility corporations," he said.

Hamburg said CURB was crucial to the Pinckney Neighborhood Assn.'s fight against KPL, which wanted to install a major power line in the Lawrence neighborhood.

In August 1993, the Lawrence City Commission ordered KPL to place the electric transmission line along the Kansas River.

**"Really, without CURB we wouldn't have been able to do what we did,"** Hamburg said. **"CURB helped us understand what our options were."**

Vera Lieben 87 yrs. old  
resides in Winchester, Kansas.  
She is a ratepayer experiencing  
difficulties with her utilities due  
to her living on a fixed income.  
She contacted her representative  
Joann Flowers to seek assistance.  
Rep. Flowers referred her to Donna  
Kidd, Curb Board member.  
She is here today testifying for  
herself and other older citizens  
living on fixed income and  
barely ~~able~~ able to survive.



Transportation and Utility Committee:

To Whom it May Concern:

I wish to thank the C.U.R.B. for your concern in the K.P.L. and Utility Companies

We need more watch dogs in Topeka to remind our Representatives and Senators how some of our Utility Companies are ripping off the people of Kansas by over charging. K.P.L. charged me for gas not delivered.

Sincerely,

J. E. Spencer  
Newton, Ks.

316-283-3712

STATE OF KANSAS

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July 26, 1993

Representative Tim Shallenburger  
House Speaker Pro Tem  
2027 Fairview  
Baxter Springs, Kansas 66713

Dear Representative Shallenburger:

This is in response to your request for information about the Citizens' Utility Ratepayer Board (CURB).

CURB began in 1988 as a creation of the State Corporation Commission. At that time, it was not statutory. Legislation creating CURB as a statutory entity attached to the Corporation Commission for administrative purposes was enacted in 1989. The legislation created a five-member board appointed by the Governor that had the authority to employ a consumer counsel who could intervene on behalf of consumers in hearings before the Corporation Commission. The statutes provide that CURB's financing comes from assessments levied against certain public utility companies. No assessments are made against electric or telephone cooperatives that have a membership of less than 15,000, nor does CURB have any jurisdiction over these utilities.

The 1991 Legislature enacted legislation separating CURB from the Corporation Commission for budgeting, purchasing, and related management purposes, effective in FY 1993. However, the Corporation Commission continues to do the actual calculations that determine how much each utility will be assessed to finance CURB. This is because CURB and the Commission are funded from assessments against the same utilities (with some exceptions) and it is more efficient and less expensive for the Commission to include CURB in its computer program and calculate all of the assessments at once than it would be for CURB to calculate its assessments independently.

You have asked for information about the assessments each utility has paid for CURB since it began. The first year for which information is available is FY 1990. Prior to that, costs for CURB were absorbed by the Corporation Commission and no specific assessments for CURB were made. No information is available for the current fiscal year because assessments are made on a quarterly basis and the first assessment for FY 1994 has not been made.

The process by which assessments are determined is the following: The approved budget for the upcoming fiscal year is divided by four to arrive at an amount of revenue that will be needed for each quarter. Any balance remaining from the prior fiscal year is subtracted from the amount

ATTACHMENT 14

SEN. TRAVIS 2/17/94

19-1



needed to finance operating expenses for the first quarter. Next, any reimbursements due CURB from utilities involved in rate cases before the Corporation Commission are identified and subtracted. (Whenever CURB intervenes in a rate case that is before the Commission, it is entitled to recover its actual costs for salaries, consultants, and other operating expenses from the utilities that are involved in the rate case.) Any amount remaining to fund CURB's operating expenses for the quarter is the amount that must be obtained from assessments against utilities. According to staff at the Corporation Commission, sometimes no assessment is necessary in a given quarter because reimbursements are adequate to fund CURB's expenses. If assessments are made, they are made on the basis of each utility's gross intrastate revenues.

The Corporation Commission has supplied information on assessments for CURB for fiscal years 1990 through 1993, which is enclosed. The material shows both the regular quarterly assessments each utility paid for each fiscal year and any reimbursements the utility made to CURB as the result of being involved in rate cases before the Commission. To simplify the material, I prepared a summary that lists those utilities individually whose total assessments (regular and reimbursements) amounted to 5 percent or more of CURB's revenues each year, with an "all other" category for the remaining utilities whose individual assessments comprised less than 5 percent of CURB's revenues. As you can see, much of CURB's financing was from fewer than a half dozen major utilities, such as Kansas Gas and Electric, Kansas Power and Light, and Southwestern Bell Telephone. Note also the variations among the years as to the portion of the budget that was financed from the quarterly assessments in relation to reimbursements.

You also asked for information about CURB's staff and about its current and future assessment of expenses. CURB is authorized three full-time-equivalent positions: a general counsel, an office specialist, and a clerical position. In addition, the 1993 Legislature approved funding for one special projects position (a position that is not part of its position allocation and is subject to year-to-year review).

It is not possible to speculate on CURB's "future assessments." As I indicated, no assessments have been made for FY 1994 and, while it is known how much money the Legislature approved for this fiscal year, it is not known how much money might be recovered from reimbursements as opposed to regular quarterly assessments. Expenditures for years beyond FY 1994 would be based on amounts requested by the Board, recommended by the Governor, and approved by the Legislature.

The information below shows actual and estimated expenditures for CURB since its inception:

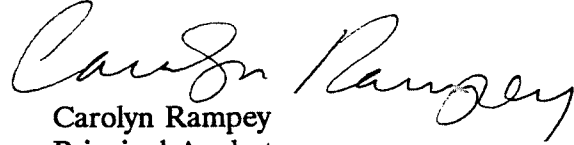
<u>Fiscal Year</u>	<u>Expenditures</u>	<u>Increase Over Prior Year</u>	
1989	\$ 108,621	\$ --	--%
1990	234,811	126,190	116
1991	299,704	64,893	28
1992	304,412	4,708	2
1993	312,222 (est.)	7,810	3
1994	353,190 (est.)	40,968	13

Representative Shallenburger

- 3 -

I hope this information is helpful. Please call if you have any questions.

Sincerely,



Carolyn Rampey  
Principal Analyst

93-6959/CR/jl

Enclosure