

House Energy, Utilities and Telecommunications Committee  
Testimony of Citizens' Utility Ratepayer Board  
Neutral Written Testimony  
House Bill 2225  
February 9, 2023

Chairman Delperdang and members of the House Energy, Utilities and Telecommunications Committee, thank you for this opportunity to testify regarding House Bill (HB) 2225. 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 or Commission) and the Kansas Legislature. My testimony reflects the interests of these utility ratepayer classes regarding HB 2225. CURB's neutral testimony reflects the fact that CURB does not have authority to intervene in cases determined by the Federal Energy Regulatory Commission (FERC) and is only generally aware of the law pertaining to the transmission of electricity in interstate commerce.

With respect to a for-profit, investor-owned electric utility serving more than 20,000 customers ("subject utility"), HB 2225 removes the recovery procedures specified in K.S.A. 66-1237 for transmission-related costs associated with transmission facilities constructed as a result of such utility's internal or local planning processes absent a notice to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the FERC, or any successor agency ("subject transmission-related costs"). HB 2225 also provides a process by which subject transmission-related costs that are being recovered by a subject utility through a transmission delivery charge pursuant to K.S.A. 66-1237 shall be removed from such charge and placed into that utility's rate base, beginning July 1, 2023.

HB 2225 provides that a subject utility may elect to recover through a transmission delivery charge pursuant to K.S.A. 66-1237, all transmission-related costs associated with transmission facilities constructed as a result of a notice to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the FERC, or any successor agency. Essentially, for subject utilities, HB 2225 distinguishes subject transmission-related costs from transmission-related costs associated with transmission facilities constructed as a result of a notice to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the FERC. Currently, K.S.A. 66-1237 has no such distinction of transmission-related costs.

The KCC staff believes that HB 2225 will result in significant savings for Kansas ratepayers with respect to subject transmission-related costs. Moreover, it would appear that the KCC staff and other parties will have additional time to review subject transmission-related costs prior to their inclusion into rate base. Some have estimated that electric utility transmission costs that Kansas ratepayers pay have increased by 500% in the past 15 years. Clearly, something must be done to help Kansas ratepayers, including residential and small commercial electric utility ratepayers, in these regards. More oversight is needed. These aspects of HB 2225 clearly benefit

Kansas residential and small commercial ratepayers. Therefore, CURB is supportive of the intent of HB 2225.

However, CURB notes that transmission of electricity in interstate commerce is regulated by the FERC under federal law. CURB has not had sufficient time to evaluate the intersection of HB 2225 with applicable federal law, including orders of the FERC. CURB believes that the changes to K.S.A. 66-1237 must accord with the U.S. Constitution, including the Supremacy Clause contained therein, in order to be effective. The Kansas Legislature should have assurance from proponents that HB 2225 is lawful in those regards. CURB is aware that there may be a path forward that accords with the principles of the U.S. Constitution, but cannot affirmatively confirm that HB 2225 meets those strictures at this time. CURB intends to further research this matter and may alter its position if and when HB 2225 is heard by the appropriate Committee in the Kansas Senate.

Moreover, in enacting K.S.A. 66-1237, the Kansas Legislature determined Kansas policy with respect to all transmission-related costs associated with transmission facilities constructed by Kansas electric utilities. CURB believes that HB 2225 constitutes a change in that policy, albeit for the potential benefit of Kansas ratepayers. CURB anticipates that other conferees will fully address the public policy issues raised by HB 2225, leaving the Kansas Legislature to determine whether HB 2225 and its potential savings are good public policy. Until these public policy arguments are vetted, CURB is neutral on HB 2225.

Thank you for considering CURB's perspective on HB 2225.