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Before the House Committee on Energy, Utilities, and Telecommunications

February 9, 2023

In-Person Neutral Testimony
On House Bill 2156

Submitted by Jeff McClanahan, Director, Utilities Division
On Behalf of
The Staff of the Kansas Corporation Commission

Chair Delperdang, Vice Chair Turner, Ranking Minority Member Ohaebosim, and members of the Committee, thank you for the opportunity to provide testimony today on behalf of the Staff of the Kansas Corporation Commission (Commission).

The Staff of the Commission (Staff) is neutral with respect to House Bill 2156 (HB 2156). HB 2156 would allow a public utility to propose rates, terms or charges for the benefit of low-income residential customers. The bill would also allow low-income rates to be set below the actual cost of service for such customers so long as the Commission determines that the rates are not unjust or unreasonably discriminatory or unduly preferential. The Citizen's Utility Ratepayer Board has worked with stakeholders in developing HB 2156 and Staff participated in the stakeholder process.

The decision as to whether HB 2156 should become law is a policy decision for the legislature. To aid the legislature in its decision making, Staff is providing background information on the current status of Commission's authority for low-income rates and how low-income rates will impact the residential class overall.

Background:

In order to address a Kansas Gas Service request for a low-income assistance tariff in a rate case[1], the Commission opened a general investigation in Docket No. 04-GIMX-531-GIV (04-531 Docket). In defining the issue to be addressed, the Commission stated the following in its order opening the 04-531 Docket:

> On January 31, 2003, Kansas Gas Service Company (KGS), a Division of ONEOK, Inc., filed an application for a general rate increase. KGS' application included a request to approve a proposed low income assistance tariff involving what is commonly known as a "lifeline rate". Docket No. 03-KGSG-602-RTS. The Commission has previously defined a "lifeline rate" as:

[1] KGS's request for a low income assistance tariff was in Docket No. 03-KGSG-602-RTS.

> [A] rate set below the cost of service so as to assist a certain group of consumers in meeting their essential energy needs and/or to promote some general public interest. A lifeline rate is one made available to a selected group of consumers, based not upon their utility usage characteristics, but upon socioeconomic factors such as age, income or handicap. The purpose of such a rate is to help those consumers who for whatever reason, are unable to afford the cost of their essential energy needs." (Docket No. 134,584-U, Order, November 9, 1982, p. 2.) In the KGS rate case, the Commission approved a settlement agreement in which the parties agreed the proposed low income assistance tariff was more appropriate for a Commission general investigation in a separate docket. (Docket No. 03-KGSG-602-RTS, Order, September 17, 2003).

Litigation Staff for the Commission performed a legal analysis on the lifeline rate issues in the 04-531 Docket and determined that lifeline rates continued to be prohibited as impermissibly discriminatory and preferential. Litigation Staff's conclusions were based on (1) K.S.A. 66-101b, which expressly prohibits any electric public utility from charging discriminatory or unduly preferential rates, (2) K.S.A. 66-101d, which allows a public utility to charge special rates, but such rates must be open to "…all users of a like kind of service under similar circumstances and conditions.", and (3) case law.

Impact of low-income rates on the residential class:

Any low-income rates proposed by a utility and authorized by the Commission will inherently create a cross-subsidy because the low-income rate will increase the total revenues, and corresponding rates, that must be collected from the rest of the residential customer class. However, HB 2156 as proposed strikes a balance by allowing the Commission to approve low-income rates, but limits the amount of the low-income cross subsidy to an amount that is not unjust or unreasonably discriminatory or unduly preferential. In determining whether rates are not unjust, unreasonable or unduly preferential, the Commission will have to address several issues, including (1) the qualifications for low-income, (2) what level of discount can be applied to low-income customers without rates becoming unjust, unreasonable or unduly preferential, and (3) will there be any cost savings, such as from reduced late fees and collections, to offset non-participants increased costs. These issues can be addressed through stakeholder input to help guide the Commission's decision(s).

Thank you for the opportunity to offer our perspective on the proposed bill and the opportunity to appear before you committee.