

**Before the Senate Utilities Committee
February 8, 2023
Neutral Testimony on Senate Bill 68
Submitted by Dwight D. Keen, Commissioner
Kansas Corporation Commission (KCC or Commission)**

Chair Olson, Vice Chair Petersen, Ranking Minority Member Francisco, and members of the Committee, thank you for the opportunity to provide this written testimony to your Committee on Senate Bill 68 (SB 68).

SB 68 would establish a Right of First Refusal (ROFR) for incumbent electric utilities in Kansas to build transmission facilities that would otherwise be subjected to competitive bidding before the Southwest Power Pool (SPP). I concur with the neutral position on SB 68 taken by the KCC staff. However, I believe that further explanation of the factors and possible consequences of the Legislature's consideration of SB 68 should be noted.

The adoption of SB 68 would preclude competition within the purview of the KCC's regulation of state sanctioned utility monopoly power and potentially reduce the accompanying safeguards of regulatory oversight. Otherwise stated, the competition contemplated by the existing competitive bidding process for electric utility transmission in non-ROFR states, including Kansas, is competition that includes state regulatory electric utility oversight.

Within any commercial or industrial context, competition in the market place tends to mitigate the potential for the use and abuse of monopoly and oligopoly power. In the case of regulated utility monopolies, ROFR legislation may quell competition where otherwise pragmatic and permissible. The absence of a competitive bidding process may generally risk institutionalizing and incentivizing less cost efficiency and accountability by incumbent utilities and may result in higher prices for consumers, diminished incentives for cost containment and innovation and less consumer value creation.