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Neutral Testimony On House Bill 2527

Submitted by Justin Grady—*Deputy Director of the Utilities Division*
On Behalf of The Staff of the Kansas Corporation Commission

Chair Fagg, Vice Chair Petersen, Ranking Minority Member Francisco, and members of the Committee, thank you for the opportunity to provide testimony to your Committee today on behalf of the Staff of the Kansas Corporation Commission (KCC).

The Staff of the KCC is neutral towards the passage of HB 2527. HB2527 makes three changes to existing utility regulatory law in Kansas:

1) It establishes a Plant in Service Accounting (PISA) ratemaking mechanism that allows electric public utilities in the State to defer 90% of the costs incurred when a utility invests in electric infrastructure to serve customers between rate cases. This would include both a 'return on' investment and a 'return of' capital through depreciation expense. These costs would be placed in a regulatory asset, which would be placed in the utility's rate base to earn a return and be amortized over 20 years, beginning with the next rate case;

2) It revises the allowed parameters for Economic Development Discount Rates (EDRs) pursuant to K.S.A 66-101j. EDRs will now be able to be offered for ten years instead of just five years. The bill also removes the requirement that the discount be tracked and recovered from all other customers in a rate case; and

3) It allows an electric utility to recover the carrying costs associated with the construction of a new natural gas-fired electric generating facility through a surcharge on customers' bills, instead of these costs being collected through general rate cases.

We opposed this bill in its original form when it received a hearing before the House Energy, Utilities, and Telecommunications Committee. Subsequent to the hearing, Chairman Delperdang convened a stakeholder process in which several key energy stakeholders in Kansas met several times to discuss their concerns with the proposed bill, and to work on revisions to the bill to address those concerns. Key stakeholders involved in those discussions included the Citizens Utility Ratepayer Board (CURB), Kansas Industrial Consumers (KIC), Kansas for Lower Electric Rates (KLER), the Kansas Chamber of Commerce, the Sierra Club, AARP, Evergy, KCC Staff, and others.

The stakeholder process resulted in a revised version of HB 2527 which resolved, in substantial form, all of the concerns that Staff previously expressed about the original bill. Most importantly, the bill has been revised to remove entirely the provisions that would have limited the Commission's authority to set the

Return on Equity and Capital Structure in rate cases that best balance the interests between shareholders and ratepayers, and which results in Just and Reasonable rates.

The bill has also been revised to include several customer protections that were important to the stakeholders. Those include: 1) Revisions to narrow the types of capital investment that qualifies for PISA treatment; 2) Deferrals of unrecovered return on investment and depreciation expense limited to 90% of the total from 100% originally; 3) Sunset provision that occurs by December 31, 2030, which can be extended six years with Commission approval; 4) Rate cap of 1.5% annually for the impact of the PISA portion of the bill; 5) Provision that construction amounts included in the Construction Work in Progress (CWIP) natural gas plant tracker cannot exceed the definitive cost estimate established during a predetermination proceeding pursuant to K.S.A. 66-1239; and 6) Claw back provision that allows the Commission to order customer refunds in the event that the natural gas generation plant included in the CWIP tracker isn't completed and placed in service.

After all of these revisions, Staff believes that HB 2527 is a well-crafted piece of legislation that is a policy call properly before the legislature. This bill does not contain any explicit flaws that are inherently inequitable to Kansas ratepayers, instead it presents a series of trade-offs for policy makers to consider. For example, PISA would likely increase electric rates and diminish a utility's incentive to manage costs in between rate cases. On the other hand, PISA will also lessen a utility's financial disincentive to proactively invest in infrastructure to support future economic development or other policy goals of the State, such as reliable electric service. For EDRs, while the expanded parameters of EDRs in HB 2527 will mean that a smaller subset of customers will be charged less for utility service than other customers, if these EDRs encourage new customers to come to Kansas (or existing customers to expand their current operations) that otherwise not have occurred, then all electric customers will be better off as a result of these EDRs. Lastly, allowing a utility to place a surcharge on current customer bills to recover the carrying costs of a new natural gas generating facility will not be popular with all customers, and will result in customers paying for electric infrastructure that is not currently providing them service. On the other hand, the existence of this surcharge should result in fewer overall rate cases, and will result in a lower overall cost of the new electric plant when construction is completed, due to the avoidance of Allowance for Funds used During Construction (AFUDC).

As noted above, the PISA provisions of this bill are subject to an annual rate cap of 1.5% of retail rates. A 1.5% increase in retail rates for Evergy Kansas Central (EKC) is $28.3 million per year, and for Evergy Kansas Metro (EKM) it is $9.8 million per year. We worked with Evergy to perform modeling to estimate the likely rate impact of the PISA portion of this bill based on current estimates of capital expenditure levels in the years to come. That modeling confirmed that the rate impact of the PISA portion of this bill is likely to be less than 1% of retail rates through the sunset date of 2030, or $18 million per year for EKC and $6 million per year for EKM. The rate impact depends on the frequency of rate cases, and the impact starts off smaller and will grow over time as additional capital investment is made, and additional regulatory assets are added to rates. A recent Bank of America Research Report estimated that the rate impact of the PISA portion of this bill would grow to $12.4 to $16.5 million/year for EKC by year 2030, and $4.4 to $5.9 million/year for EKM by 2030. These rate estimates remain below 1% of retail rates.

Thank you for the opportunity to offer Staff's perspective on the proposed bill and the opportunity to appear before your Committee.