



## HOUSE COMMITTEE ON ENERGY, UTILITIES & TELECOMMUNICATIONS

### Opponent Testimony for HB 2228 – Net Metering

Feb. 7, 2023

Presented by:  
**Doug Shepherd on behalf of  
Kansas Electric Cooperatives, Inc.**

Chairman Delperdang, Vice Chair Turner and Ranking Member Ohaebosim and members of the House Committee on Energy, Utilities & Telecommunications, thank you for the opportunity to submit comments on HB 2228. I am Doug Shepherd and I appear today on behalf of Kansas Electric Cooperatives, Inc. (KEC) and 28 of their member, not-for-profit cooperatives providing electric service in 103 of 105 Kansas counties. Collectively, KEC and our members, except for Midwest Energy, Inc., which takes no position on this bill, rise in opposition to HB 2228. As such, references to KEC membership in this particular statement exclude Midwest Energy, Inc.

Electric cooperatives are member-owned and governed, provide electric service at cost on a not-for-profit basis while doing so in challenging rural areas with low customer densities and decreasing populations. Democratic control, under the leadership of a member-elected board of trustees is a hallmark of the cooperative business model. Kansas statutes further this time-honored standard by granting electric co-ops a statutory right to self-regulate rates and rate structures. These trustees set policies and rates in the best interests of the cooperative knowing that their decisions affect their fellow cooperative members, friends and neighbors.

Cooperatives operate at cost. This is a key point of the cooperative business model. **There is no profit built into an electric cooperative's rates.** Their rates are designed to recover the costs of providing electric service with a small cushion or margin which is required by their lenders.

HB 2228, impinges upon a cooperative's statutory right to self-regulate rates and rate structures under the direction of a member-elected board of trustees. Historically, cooperatives have not been subject to statutory net metering requirements (K.S.A. 66-1263, *et. seq.*), only the statutory parallel generation statute (K.S.A. 66-1,184). Even so, most electric cooperatives have used their ability to develop local rate structures that benefit their individual members to craft net metering tariffs.

KEC members developed a model net metering tariff in 2009 that provided the foundation for those cooperative tariffs. Currently, KEC has a working group reviewing and developing an updated model of distributed generation tariffs that members will be able to adapt to their individual needs.

Although proponents may say HB 2228 establishes uniform net metering rules across certified territories, this attempt at a one size fits all approach does not produce uniform impacts. No two co-ops are alike and co-ops size and/or customer density stand in stark contrast to investor-owned or municipal utilities. A median-sized cooperative with approximately 8,000 consumer-members will feel the effects of HB 2228 differently than a utility with nearly 800,000 customers which is 100 times the size of the average electric cooperative

Besides requiring cooperatives and municipally-owned utilities to offer the same version of net metering as the investor-owned utilities, HB 2228 expands the incentives and subsidies that will flow to owners of distributed generation (DG) such as rooftop solar. Passage of HB 2228 will:

1. remove all size limitations of a net metered facility;
2. allow a net metering facility to export up to 250 kW of capacity on to the utility's system;
3. require utilities to offer net metering up to 10% of their peak demand; and
4. allow the rollover of 75% of the net excess energy at the end of the billing period and through March 31 of each year

Current law states that the customer-generator's net metering facility is intended "primarily to offset part or all of the customer-generator's own electrical energy requirements." This bill removes all size restrictions and prohibits a utility from imposing a cap or limit on the amount of electricity that a customer-generator may generate subject to net metering. While current law requires that the customer-generator appropriately size their "generation" to their expected load, HB 2228 changes this to appropriately size their "system's export capacity" to their expected load. It is not clear whether the bill's author intended for the customer to be able to export an amount equal to their load, thus being large enough to serve the load as well as export an amount equal to their load. If so, this would amount to net metering facilities twice the size of their expected load, and up to 250 kW larger. This bill goes beyond early net metering policies as well as the intentions clearly stated in the net metering act and incentivizes and rewards DG consumers for overproducing electric energy.

While the current law requires investor-owned utilities to offer net metering up to 1% of their peak demand, most cooperatives have allowed a max of 5% of their peak demand. I doubt that the IOUs are anywhere near their 1% max, but a number of cooperatives have reached, or are approaching, their self-imposed max of 5%. This is causing a number of challenges in that some individual substations or circuits are saturated with customer-owned solar generation and during times of peak solar generation, more energy is being generated than can be used by other customers on that circuit. This also limits the ability of other consumers on that circuit of being able to install their own

net metered facility. A mandatory requirement of increasing this maximum to 10% will exacerbate this problem.

HB 2228 will also increase the value of the net excess energy provided to the consumer. Net metering allows the consumer to receive retail value for all excess generation on a 1:1 basis. The utility is essentially buying excess energy at retail, “storing” it on the grid and then delivering it back to the consumer later when their consumption exceeds their generation, for example at night. This energy the utility buys at retail replaces what they would have purchased at wholesale prices or generated on their own. It is not sustainable for any business to buy a product at retail and then sell it at retail and expect to remain in business without recovering its other costs of providing service.

These increased incentives, along with recently restored Federal income tax incentives, will result in the installation of even more distributed generation. While there are some that believe that this is a positive result, the result will be higher rates for non-generation owning consumers.

In simplest terms, the average retail price of electricity can be calculated by taking the total cost of electric service and dividing by the number of kilowatt-hours sold. Most of a utility’s costs in the numerator are fixed, i.e., depreciation and interest expense for generation, transmission, distribution and general plant, the operation and maintenance expense of the plant, and administrative and general expenses. These costs are not affected by the amount of energy delivered and sold. As fewer units are sold and the denominator decreases, the average price is guaranteed to increase the price of electricity.

The DG customer is avoiding paying some of these fixed costs normally recovered by the utility via the delivered energy charge. If the utility doesn’t recover these fixed costs from the DG customer, they will have to raise rates or redesign their rate structure for all customers.

The price of electricity includes more than just the production cost of energy. It includes generation expenses (power plants and operating/fuel costs), transmission and distribution (substations, poles and wires), administrative & general (metering, billing, accounting, customer service and management). Generation operating/fuel costs are approximately 20% of the total cost, the remaining 80% are fixed costs.

A significant cost shift may necessitate or accelerate utilities to restructure their rates which could include a higher service charge or a three-part rate design (service, demand and energy charges).

For these reasons and more, we respectfully request the committee reject this proposal. Alternatively, if the committee decides to work the bill, we ask that our KEC members be exempted from the bill to protect cooperative’s ability to set rates and rate structures

locally. We work with the committee so that a balloon for our requested amendment would be available, should the committee take action on HB 2228.

Thank you again for the opportunity to share our concerns with HB 2228. I would stand for questions at the appropriate time.

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