KEC
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HOUSE COMMITTEE ON ENERGY, UTILITIES & TELECOMMUNICATIONS

Opponent Testimony for HB 2227 – 3rd Party PPAs

Feb. 7, 2023

Presented by:
Doug Shepherd on behalf of
Kansas Electric Cooperatives, Inc.
Midwest Energy, 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 2227. I am Doug Shepherd and I appear today on behalf of Kansas Electric Cooperatives, Inc. (KEC) and their 29 member, not-for-profit cooperatives including Midwest Energy, Inc. These 29 electric cooperatives provide electric service in 103 of 105 Kansas counties. Collectively, KEC and our members rise in opposition to HB 2227.

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.

As not-for-profit utilities, electric cooperatives provide reliable, affordable electricity based on the cost to serve various customer classes. HB 2227 will shift costs from distributed generation (DG) consumer members to non-DG consumer members.

HB 2227 will allow non-utilities or "renewable energy suppliers" to sell electricity generated by a solar or wind generator directly to retail customers. This is akin to a lite version of retail wheeling, a scheme proposed over twenty-five years ago which would have allowed retail electric suppliers to sell electricity directly to customers and delivering this electricity over the utility's existing infrastructure. The effect would have

been to strand hundreds of millions of dollars of Kansas-based generation assets that were built to serve a customer base that would no longer have been needed to provide their power supply.

By placing these “eligible generation facilities” on customer premises, the result will be not just stranded generation assets, but stranded transmission and distribution assets as well. The “renewable energy supplier” will have no obligation, or ability, to provide all the power requirements of the customer. The “host customer-generator” will rely on the utility to provide power supply when the RES’s generator is not producing, for example when the sun is not shining or the wind is not blowing. The utility will be required to maintain their existing generation assets in order to serve the customer when needed, but will sell fewer kilowatt-hours resulting in lower efficiencies and higher costs.

An increase in the number of customer-owned or RES-owned generation will result in 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.

When the RES is providing energy, the host is avoiding 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 on all customers, including the DG customer.

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 will necessitate and accelerate utilities restructuring their rates with higher service charges or a three-part rate design (service, demand and energy charges).

The Retail Electric Supply Act (RESA) requires the utility holding the certificate to serve all customers within its territory, regardless of profitability. A Renewable Energy Supplier (RES) would be permitted to sell electricity without being considered a utility along with the regulatory oversight. In addition, the RES can choose which customers it will serve, unlike a certificated electric utility who must serve all customers in its territory.

If past experiences are any indication, increased federal and state incentives will attract less-than-reputable entrants to the market. Many of these companies will be here for a quick buck and may not be around to warranty their product or workmanship. While there are several reputable solar installers currently operating in Kansas, many less-reputable installers have already appeared and often recommend oversized systems or

misrepresent utility rates or policies, creating false expectations regarding the financial viability of the project. This could result in many consumer protection abuses.

When you dig a little deeper, 3rd party PPAs may not be as prevalent as some assert. The North Carolina Clean Energy Technology Center's Database of State Incentives for Renewables & Efficiency (DSIRE) indicates that, as of August 2021, only 29 states have authorized PPAs, and many of those place limitations on them through restrictions such as size limits or application to certain customer classes. In 15 states, 3rd party PPA status is unclear or unknown and six have disallowed 3rd party PPAs.

For these reasons and more, we respectfully request the committee oppose HB 2227. Thank you again for the opportunity to share our concerns with HB 2227. I would stand for questions at the appropriate time.

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