



Testimony Provided to the

House Energy, Utilities & Telecommunications Committee

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Testimony in Support of Substitute for SB 323

Kansas Municipal Utilities (KMU) is the statewide association of community owned and operated electric, natural gas, water, wastewater, stormwater and telecommunications utilities across Kansas. As a not-for-profit association established by its member utilities in 1928, KMU is dedicated to serving the training needs and legislative & regulatory interests of our 180 consumer-owned utilities and the citizens, businesses and industries that they serve.

KMU supports Substitute for Senate Bill 323 in its current form. The legislation is the culmination of negotiations between KMU, Kansas Electric Cooperatives (KEC) and other stakeholders. There are three main areas of the bill and this testimony will focus on Section 1 regarding municipal energy agencies (MEAs).

Background

There are two municipal energy agencies in Kansas, the Kansas Municipal Energy Agency (KMEA) and the Kansas Power Pool (KPP). While similar in organization and structure, these two agencies offer municipal utilities in Kansas a distinct choice in how to handle power supply. Cities also have the obvious choice of not joining either MEA.

KMEA is a “project-based” agency that allows its members to pick and choose those projects in which to participate. Its 82 members may opt to be a part of an energy management pool or to invest in generation such as the Dogwood natural gas combined cycle power plant or wind energy in western Kansas. For each of these projects, KMEA must secure city council or local governing body approval for each participant.

KPP is a “full requirements” agency that provides electricity through a combination of purchased generating assets, power supply contracts, and generation owned and operated by the members themselves. The 24 members of KPP all have an equal voice in approving budgets, setting rates, and selecting power supply and transmission opportunities. This pooling approach is ideal for cities that wish to be held in parity with its fellow members, achieve efficiency through economies of scale and utilize KPP staff to forecast loads and secure power supply.

In 1977, the Kansas Legislature created the statutes for municipal energy agencies in Kansas pursuant to the MEA Act. KMEA was formed in 1980 and received all the necessary approvals from the Kansas Attorney General. KPP followed in 2005. Both agencies have been operating openly and with the full knowledge of the Kansas Corporation Commission (KCC) since their formation. The KCC has never exercised any regulatory oversight since the formation of the first MEA over 37 years ago.

On January 9, 2018, the KCC issued an order claiming full regulation over municipal energy agencies (MEAs). The KCC determination stated that Kansas statutes allow the KCC to regulate MEAs in the same manner as other jurisdictional utilities. Their jurisdiction would mirror that exercised over investor-owned utilities that provide electricity services to retail customers.

The KCC action is being taken even though MEAs have no captive retail customers, no defined exclusive service territory and are member-city owned, managed and controlled. The services that MEAs provide municipal utility members are not regulated by the KCC when provided by other entities such as the investor-owned utilities and the electric generating and transmission cooperatives.

Without legislative relief, the January 9 KCC order will create extreme hardship for KMEA and KPP and significantly harm the member cities and Kansas citizens that they serve. It is conservatively estimated that the cost of compliance could be as high as \$900,000 in year one and \$400,000 per year thereafter. These costs are passed along to ratepayers.

Proposed Language

The proposed language in Section 1 would amend Chapter 12 of Kansas State statutes. The amendment exempts MEAs from KCC regulation except for certain specific items where KCC regulation is appropriate. These specific items are (i) charges and fees and tariffs for transmission services provided non-members of MEAs; (ii) sales of power for resale to third parties; and (iii) wire stringing and transmission line siting.

The language is seeking clarification and requesting that regulation over municipal energy agencies be done in a manner as is currently exercised by the KCC over generation & transmission electric cooperatives. In Kansas, this means KMEA and KPP would be treated the same as KEPCo and MKEC.

The purpose and mission of municipal energy agencies is to provide services to member municipal utilities that would be impossible, impractical or infeasible on an individual basis. It is through this joint action that small communities have the opportunity to participate in projects that lower the electric bills and provide reliable service to their residential, commercial and industrial customers.

KMU supports Substitute for Senate Bill 323.