




P.O. Box 4267, Topeka, Kansas 66604-0267
7332 SW 21st Street, Topeka, Kansas 66615

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785-478-4554 • (Fax) 785-478-4852
www.kec.org

SENATE UTILITIES COMMITTEE
Testimony in Opposition of SB 322 – Utilities and the net metering act
Feb. 7, 2018

Presented by:
Alex Orel, Manager of Government Relations (913-602-0074)

Chairman Olson and members of the Senate Committee on Utilities, thank you for the opportunity to appear today on SB 322, a bill amending the Net Metering and Easy Connection Act. I am Alex Orel, Manager of Government Relations for Kansas Electric Cooperatives, Inc. (KEC). KEC is a voluntary membership association that serves 28 not-for-profit distribution electric cooperatives and three generation and transmission electric cooperatives in Kansas.

In 2009, the Kansas Legislature implemented net metering for investor-owned electric utilities (IOUs). This statute was subsequently amended five years later in 2014 with provisions affecting those customer-generators interconnecting on and after July 1, 2014. Those amendments reduced the size limits of allowed net metered systems, changed the compensation for net excess generation and allowed an IOU to request permission from the Kansas Corporation Commission (KCC) to implement a separate rate structure for customer-generators. Given the change in the law, customer-generators that were interconnected prior to July 1, 2014 were “grandfathered” under the old rules. Now, four years later, the Legislature is being asked to revise the law again, effectively reversing the 2014 law by restoring the 2009 size limits of allowed net metered systems and compensation for net excess energy as well as prohibiting a separate rate structure for customer-generators. We respectfully request that the Legislature resist changing the law again.

As further background on the issue, the KCC just finished a 20-month docket examining the appropriateness of separate rate structures for customer-generators. Parties to the proceedings presented evidence demonstrating that there was a cost shift and the KCC order stated that “the record is clear that a subsidy does in fact exist.” Furthermore, the KCC found that the current two-part rate design is problematic for utilities since customer-generators purchase less energy than non-generators which results in customer-generators not paying the same portion of fixed costs as non-generating customers. The KCC found that several rate design options were appropriate to recover the costs of service to customer-generators, provided that they are demonstrated to be non-discriminatory, just and reasonable in a rate proceeding.

Even though electric cooperatives are exempt from the statute, we are opposed to SB 322 as we believe that net metering decisions should be made by the proper authority responsible for approving ratemaking

decisions, i.e. the KCC for IOUs, a member-elected board for cooperatives, and a publicly-elected city council for municipal-owned utilities. These complex decisions involve accounting, economics, and engineering which the commission, boards and city councils have experienced staff and consultants to analyze.

As a demonstration of that local authority and in the spirit of the net metering statute, KEC drafted and recommended model net metering tariffs for our member-cooperatives which most voluntarily adopted in 2010. The cooperative ownership model means that any subsidy benefitting customer-generators will be borne by the non-generating customers. Therefore, the model language addressed the cost-shift inherent from net metering under a traditional two-part rate design and seeks to minimize it by limiting compensation for net excess generation. Customer-generators still receive one-for-one credit for all energy they produce up to the amount they consume.

While cooperatives value this authority on ratemaking, it does not mean we have free reign. Changes to rates must be approved by a member-elected board of trustees made up of consumer-ratepayers of the cooperative. Prior to changing electric rates, the cooperative must provide notice of the time and place at least 10 days prior of the meeting where the cooperative board will discuss and vote upon rate changes. This notice must be given to all members of the cooperative. Members can petition the KCC up to one year after a rate change to investigate the cooperative's electric rates. The petition must be signed by not less than five percent of the cooperative's customers or not less than three percent of the customers in any one rate class. The cooperative is also required to maintain a schedule of rates and charges at the cooperative headquarters and make these schedules available to the general public during regular business hours.

It made sense to exempt cooperatives from the net metering act and that still stands today. We are not-for-profit, member-owned, private businesses that are democratically controlled. Because our member owners elect their representatives on the board of trustees, who in turn set the policies for the cooperative, the members dictate the policies and the operations of the cooperative, including net metering.

Thank you again for the opportunity to present opposing testimony on SB 322 and I would be willing to stand for questions at the appropriate time.