

**Testimony of Jim Zakoura, Kansas Industrial Consumers Group
In Support of SB 126
Before the Senate Utilities Committee
March 20, 2019**

The Kansas Industrial Consumers Group (KIC) is a coalition of large-volume energy users in Kansas. The seven companies that are part of KIC account for over 40 percent of Westar's industrial sales. The members collectively represent billions of dollars of investment in the State and employ thousands of Kansans. We believe high energy costs are negatively impacting residential consumers, schools, hospitals, and large and small businesses.

Fortunately, there are some common-sense actions the State can take right now that will help Kansans and Kansas businesses. One important option is Senate Bill 126. SB 126 would suspend the 7% Kansas corporate income tax for investor owned utilities – an expense which is passed through and **paid by Kansas utility customers** as a component of utility rates.

SB 126 presents a rare opportunity where utility and ratepayer interests are 100% aligned. Income taxes are included in utility rates, but the utility does not profit from tax collections. Rather, tax expenses are a pass-through paid directly by customers with no profit margin flowing to the utility. A reduction in utility tax obligations should have no impact on the profitability of those companies, but it will significantly benefit all customers through lower rates. In addition, our utilities' rates will become more competitive – potentially leading to increased sales.

We know a reduction in income taxes **will directly reduce utility rates** because it happened just last year. Passed in late 2017 and going into effect in 2018, the federal Tax Cuts and Jobs Act reduced the federal corporate income tax rate from 35% to 21%. Among other impacts, this legislation materially affected utility rates of all investor owned utilities. Because federal income taxes are a component of utility rates (just like state income taxes) a large reduction in this expense caused utility rates to decrease.

For illustration, when the federal corporate income tax was reduced 14 percentage points (35% to 21%), the rates of Kansas utilities were impacted as follows¹:

¹ All figures from public filings in KCC proceedings. These figures only represent the reduction in each utility's annual income tax expense. Figures do not reflect the refunds of excess deferred taxes collected at the higher tax rate (35%) which are no longer be owed to the federal government. These figures also do not include any refunds of over-collected income taxes between the date taxes were reduced (January 1, 2018) and the date each utility reduced its rates to reflect the new federal tax rate.

- Westar Energy - \$74 million rate reduction
- Kansas City Power & Light Company - \$33 million rate reduction
- Kansas Gas Service - \$14 million rate reduction
- Atmos Energy - \$3 million rate reduction
- Black Hills Energy - \$1.8 million rate reduction
- Empire District Electric Company - \$1.2 million rate reduction

The above tax savings were distributed equitably across all classes of Kansas ratepayers. In fact, the residential classes experienced the largest allocation of these savings as they are by far the largest class of customers. There may be some debate about whether, and to what extent, the federal income tax rate should have been reduced, but **there is no doubt the legislation provided substantial savings to customers** of investor owned utilities. SB 126 offers a similar opportunity in Kansas.

KIC would also note the Kansas Corporation Commission and its Staff performed admirably to implement lower utility rates in response to the Tax Cuts and Jobs Act. With the cooperation of almost all Kansas utilities, the KCC reduced rates and ensured all benefits of the tax reduction were provided to ratepayers. We know reducing income taxes reduces utility costs, and we know the KCC can effectively and quickly translate these lower costs into lower utility rates.²

The savings listed above were achieved through a 14 percentage point reduction in federal income taxes, so eliminating the 7% Kansas income tax should have a smaller, but still very significant, effect. For instance, KIC calculates eliminating the 7% Kansas income tax expense **will save Westar and KCP&L customers \$24.3 million and \$10.1 million each year**, respectively. When all other Kansas investor owned utilities are included, those savings could approach \$40-50 million per year.

SB 126 should also benefit the customers of electric cooperatives and municipal utilities by reducing rates for wholesale energy and transmission services. This means **all Kansans would be positively impacted by SB 126**.

This legislation is a "win-win" for one more reason. While suspending utility income taxes will clearly benefit the ratepayers who pay those taxes, **it appears such action will not materially impact Kansas tax collections or the Kansas Treasury**.

First, the suspension of income tax obligations will apply only to investor owned public utilities – it will not reduce the tax obligations of any other corporate entities. In addition,

² KIC is open to adjusting the administrative timelines set forth in SB 126 to accommodate the KCC and its internal processes.

this legislation is entirely prospective and only impacts tax obligations in the next four years.

Finally, customers are paying the full 7% income tax obligation in rates, but it appears **only a very small amount of cash taxes are actually paid by the utilities to the State Treasury** by Kansas utilities. This is likely due to a variety of tax deferrals, credits, or the impact of filing consolidated tax returns. In addition, certain deferred tax liabilities, which would have been owed to the State, were eliminated as a result of the Westar and KCP&L merger.

KIC is not questioning the use of these tax strategies and supports the use of any available tax benefits by our utilities. Unfortunately, while customers pay the utilities' income tax expenses, they are not always able to fully realize these benefits. A much better approach for Kansas ratepayers is to simply eliminate State income taxes for public utilities.

All of the information above can be readily confirmed or clarified by each public utility. However, KIC notes the Chief Financial Officer of Evergy recently told the investment community that Evergy (including Westar and KCP&L) will not pay any material cash income taxes until sometime after 2022. Again, KIC is not questioning the tax strategies of Kansas utilities and supports their ability to take advantage of any available tax benefits. KIC simply endorses SB 126 as a more beneficial and equitable approach to tax and utility policy.

KIC also notes reductions in state corporate income taxes are somewhat common. Effective January 1, 2020, Missouri is reducing its corporate tax rate from 6.25% to 4%. While that legislation, like the Tax Cuts and Jobs Act, applies to all corporations, it will certainly also reduce Missouri utility rates.

In summary, Senate Bill 126 is a great option for the State to begin reducing utility rates. And it will do so in a fashion that does not appear to negatively impact any stakeholder – the utilities, customers, or the State. Thank you, and I urge passage of SB 126.

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