

Before the Senate Committee on Utilities  
March 5, 2024

Neutral Testimony  
On House Bill 2588

Submitted by Leo Haynos, Chief Engineer, Utilities Division  
On Behalf of  
The Staff of the Kansas Corporation Commission

Chair Fagg, Vice Chair Petersen, Ranking Minority Member Francisco, and members of the committee, thank you for the opportunity to provide testimony to your committee today on behalf of the staff of the Kansas Corporation Commission (Commission) to discuss HB 2588.

The Commission Staff takes a neutral position on HB 2588 (Bill). The Bill provides needed clarification to the existing statute in terms of the point of demarcation between the customer and the utility, it establishes units of measurement used to define any transactions between the two parties, and it provides clarification on size limitations of customer installations. The Bill also will increase the amount of system-wide solar capacity from which a utility is required to purchase any power that is not consumed by the generator-customer. Taken together, the amendments to this Act should increase the opportunity for customers to install more systems in Kansas, and the systems could be larger than those being installed today.

I note that while the Act and the proposed amendments establish requirements for the utility and its customers, the Act does not establish any requirements for the solar equipment installers that are selling and/or financing these equipment installations to homeowners. The topic that I wish to bring to your attention is the need for consumer protection provisions for customers purchasing residential rooftop solar equipment. While the customer is responsible for its obligations under the Act, it is typically commercial installers that perform the requirements on the customer's behalf. There have been cases in Kansas where the services provided by commercial installers were inadequate or even fraudulent. I realize consumer protection requirements are not necessarily within this Committee's mission; however, the expansion of installations contemplated by the Bill could aggravate a growing problem with apparently fraudulent solar installations that are being seen across the nation.

When the KCC's Public Affairs and Consumer Protection division receives an inquiry from the public regarding residential solar installation contractors, we inform the caller that the KCC does not have jurisdiction over solar installers, and we refer the caller to the Attorney General's Consumer Protection Unit. In speaking with the AG's staff last month, I was informed they have

received 56 complaints against solar installation companies since 2020, with 68% of those occurring in 2023. Examples of the allegations made by consumers are shown in Appendix 1 attached to my testimony. Notably, the AG staff informed me that none of the solar installers being investigated are Kansas companies.

The current law requires Evergy to purchase excess power from renewable energy customers until the connected renewable capacity participating in the program equals 1% of the respective system peak. At any time, any of the parties may petition the Commission to increase the threshold to allow additional solar customers to participate in the program, and the Commission will reach a decision based on the evidence filed in the record. We estimate solar installations could reach this cap in 2024 if the installation rates are similar those of 2023. Appendix 2 attached to my testimony provides an analysis of net metering customers connected to Evergy Kansas facilities.

Section 2 of the Bill, proposes to require the utility to purchase excess energy from customer-generators until the “total rated generating capacity” of all its customer-generators hits certain thresholds that escalate over time until reaching a maximum of 5% of the utility’s peak demand. At that time, the provision to petition the Commission for an additional increase would be available to the interested parties as it is today. Although the term “total rated generating capacity” is not defined, it appears to be a value that is calculated in alternating current power<sup>1</sup> and is evaluated and approved by the utility for each customer-generator.

While Section 2 provides for continued expansion of the *number* of net metering customer-generators, Section 4 of the bill provides for the expansion of the *size* of the facilities that can be installed on a customer’s premises. The current law limits the size of an individual generator participating in the program by limiting the generation capacity of the facility. Section 4 of the Bill amends the law to place limitations on the amount of energy that can be exported to the utility as measured in kilowatts. In this case, the units provided are in error or at least incomplete. While I am uncertain as to how the measurement of an exported kilowatt can be performed without including a time interval, it appears the intent of Section 4 of the Bill is to calculate the capacity of the customer generator at the point of connection to the utility. Section 4, paragraph (d)(1) of the Bill would limit the generating capacity calculation to no more than 150% of the customer generator’s export capacity, but this only occurs for systems installed after 2026. Before that time, there does not appear to be a limit on the *generating* capacity as long as the *export* capacity does not exceed certain levels calculated by the formula in listed in Section 4 of the Bill. This approach would allow customers to install generating capacity to serve their own needs such as charging batteries or electric vehicles in addition to their residential requirements and still maximize the amount of export capacity that the utility is required to purchase.

In summary, the Bill is an improvement over the existing law because it provides clarification as to the business transaction between the utility and the customer generator. The Bill also provides

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<sup>1</sup> See Section 1, paragraph (d).

a point of reference for making the capacity calculation as the power available at the point of interconnection to the utility. This approach should provide design certainty for customer-generators as well as allow the customer to expand capacity for any application behind the meter that has no impact on the utility. The Bill also provides for a five-fold expansion in the amount of capacity that qualifies for a mandated payment from the utility, and it allows for larger generator facilities to be installed at each premises.

Unfortunately, as I pointed out earlier in my testimony, a greater number of larger facilities that are heavily subsidized by federal tax credits may place residential consumers at greater risk of unscrupulous solar installers. Therefore, I respectfully recommend the Committee consider bringing this issue to the attention of the appropriate legislative Committee to take further action. In the alternative, the Committee could also consider modifying Section 2 of the Bill to limit the utility's requirement to purchase excess energy from customer-generators to 3% of the utility's peak demand, until consumer protection legislation can be passed. At current installation rates, a 3% cap would not be reached for at least five years, which would allow all parties to craft legislation to provide for consumer protection in this market.

Thank you for the opportunity to offer our perspective on the proposed bill and the opportunity to appear before your committee.

## Appendix 1

### Common Consumer Complaints made to the Kansas Attorney General Regarding Solar Installation Companies

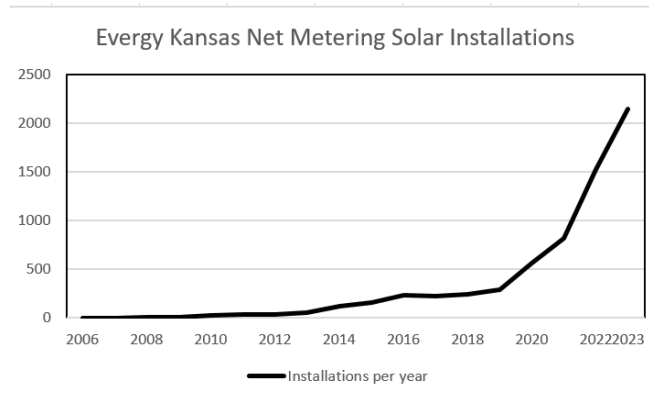
- Misrepresenting or failing to provide what was promised by the sales representative, which is usually relating to misrepresenting the annual or lifetime cost savings or energy generation of the system;
- Installers damaged property causing consumer to incur additional costs;
- Consumers did not understand they were purchasing a solar system;
- Finances charges for the system not fully disclosed;
- Misrepresent the rebate or tax credits available to the consumer, i.e., misrepresent eligibility or guarantee of tax credit or rebate;
- Failure to install the system, failure to connect the system to the home, or failure to connect the system to the electrical grid to be a customer-generator;
- Failing to comply with the Kansas door-to-door statutes of the Kansas Consumer Protection Act, specifically K.S.A 50-640 and 50-640a.

Year	Total Solar Compl.
2024	1
2023	38
2022	13
2021	2
2020	2

## Appendix 2

### Summary of Evergy Kansas Central and Evergy Kansas Metro Solar Installations

Each year, Evergy files a report with the Commission providing the number of net metering systems connected to their system and the capacity of each system.<sup>2</sup> The trend in installations completed per year is shown below.



Based on the compliance filings through 2022, Evergy Kansas has a total of 4,334 installations connected to net metering. Of that number, approximately 274 are commercial or industrial customers and the remainder are residential. The total connected capacity is 45.2 megawatts (MW) or approximately 0.62% for Evergy Kansas Central and 0.77% of Evergy Kansas Metro peak demand. As shown by the trend, most of the expansion in solar installations has occurred from 2020 through 2023. During that time period, the average size of commercial/industrial customer connecting to the system was 42kW, and the average size of a residential generator was 8.3kW. Based on those values and using the 2022 EKC installation rate of 1160 installations per year, EKC could reach the 1% of demand threshold in 2024.

<sup>2</sup> See [Docket 12-WSEE-699-CPL](#) and [Docket 12-KCPE-665-CPL](#) as required by K.A.R. 82-17-4.