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Before the Senate Utilities Committee  
February 7, 2018

Opposition Testimony  
On Senate Bill 322

Submitted by Jeff McClanahan, Director, Utilities Division  
On Behalf of  
The Staff of the Kansas Corporation Commission

Chair Olson, Vice Chair Petersen, Ranking Minority Member Hawk, 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).

Staff is opposed to SB 322 because it would establish a rate structure that mandates a subsidization of distributed generation customers by other customers.

Staff's primary opposition to SB 322 is because of Section 2, (b) that establishes a customer-generator's tariff or contract must be "*identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator.*"

The problem created by distributed generation customers is the result of three factors.

1. Most residential rates do not include a specific demand charge. Rather collection of the demand charge is through the energy charge.
2. Because Distributed generation customers do not use as much electricity as non-distributed generation customers on average, distributed generation customers do not contribute as much for demand as non-distributed generation customers, which creates a cross-subsidy.
3. Utilities' have a legal requirement to serve all customers. As a result, utilities must serve as a backup for distributed generation customers as long as they remain on the grid.

Thus, for utility planning purposes, distributed generation customers have the same demand requirements as non-distributed generation customers.

The Commission has recently completed an investigation into the rate treatment of distributed generation (DG) customers in Docket No. 16-GIME-403-GIE (16-403 Docket). In its Final Order the Commission found:<sup>1</sup>

- The “evidence supports a finding that DG customers are not paying their full fixed costs and are thus being cross-subsidized by the other residential customers”;
- However, “there is not sufficient evidence for the Commission to determine whether that cross subsidization results in an unduly preferential rate because not all of the utilities provided analysis regarding the extent to which cross-subsidization exists”;
- Thus, the Commission concluded that “information would only be available after the utilities completed a class cost of service study in their next rate case” to determine the extent of the cross-subsidization and whether a special rate design is appropriate for distributed generation customers.

Climate and Energy Project (CEP) filed a Petition for Reconsideration of the Commission’s Final Order. In its Petition, CEP claimed (among other things) that the existence of cross-subsidization had not been proven. The Commission’s Order on Petition for Reconsideration<sup>2</sup> disagreed with CEP’s claim and stated as follows:

CEP also argued that the proponents of the S&A did not prove the existence of a subsidy from non-DG to DG customers. The Commission disagrees. *Although the record does not quantify the extent of the subsidy, the record is clear that a subsidy does in fact exist.* CEP’s argument raises the proverbial chicken and the egg issue. The electric utilities cannot quantify the amount of subsidy provided to DG customers by non-DG customers, absent a class cost of service study. The electric utilities cannot conduct a class cost of service study to quantify the subsidy absent permission from the Commission to classify DG customers separately from non-DG customers. The Commission was persuaded by the record that a subsidy does in fact exist and approved the S&A so the electric utilities could conduct a class cost of service study to quantify the size of the subsidy. As indicated above, no change in rate design or rate can occur absent a showing that the change results in just and reasonable rates that are neither unduly discriminatory nor preferential. Therefore, the Commission denies CEP’s request for reconsideration on this point. [Emphasis added].

The Commission has deferred making a determination of the best rate structure for distributed generation customers until more data is available. By waiting for customer cost data in the next rate cases, the Commission is “allow[ing] the parties to further develop the necessary facts on a utility by utility basis.”<sup>3</sup>

SB 322 is an attempt to circumvent the process outlined by the Commission in the 16-403 Docket and force non-distributed generation customers to subsidize distributed generation

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<sup>1</sup> Final Order, Docket No. 16-GIME-403-GIE, September 21, 2017, ¶ 36.

<sup>2</sup> Order on Petition for Reconsideration, Docket No. 16-GIME-403-GIE, November 2, 2017, ¶ 25.

<sup>3</sup> Final Order, Docket No. 16-GIME-403-GIE, September 21, 2017, ¶ 37.

customers regardless of whether a cross-subsidy is unduly discriminatory. Commission Staff believes that any further modification of the current statutory authority of the Commission regarding rates for distributed generation customers is unnecessary.

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