



**Liberty Utilities**  
EMPIRE DISTRICT



*Evergy companies*

## **OPPOSITION TESTIMONY**

### **Senate Committee on Utilities**

**Whitney Damron**  
**On behalf of Liberty Utilities – Empire District**

**Chuck Caisley**  
**On behalf of Westar Energy and KCP&L (Evergy)**

**February 19, 2019**

Good afternoon Chairman Masterson and Members of the Committee:

Whitney Damron and Chuck Caisley appear before you today in opposition to SB 69 on behalf of Liberty Utilities – Empire District, and Westar Energy/KCP&L (which are now combined into one company known as Evergy).

Liberty Utilities' Central Region is headquartered in Joplin, Missouri and provides electric, natural gas, water and wastewater service to nearly 320,000 customers across six states, including Missouri, Kansas, Oklahoma, Arkansas, Iowa and Illinois. The company has approximately electric 10,000 customers in Kansas in the southeast corner of the state.

In Kansas, Liberty Utilities – Empire District owns and operates a 286-megawatt natural gas power plant in Riverton, Kansas and has purchase power agreements with two Kansas windfarms: Elk River Wind Farm in Butler County and Meridian Way Wind Farm in Cloud County. In addition, the company has contracted with Apex Clean Energy to purchase an approximately 300-megawatt renewable wind energy project in Neosho County, Kansas, once the project is operational (scheduled for late 2020).

Westar Energy and KCP&L merged in 2018 to form Evergy. Together they serve more than 1.6 million customers in Kansas and Missouri—more than 1 million of them in Kansas. Evergy is headquartered in both Topeka, Kansas and Kansas City, Missouri. In addition, Evergy owns, operates and maintains more than 52,000 miles of distribution lines, 10,000 miles of transmission lines and 13,000 megawatts of electric generation facilities, 25 of which are located in Kansas. Combined, the companies have one of the largest portfolios of wind generation in the United States, with nearly 3,500 megawatts of wind power, most of which is located in Kansas.

During the 2018 legislative session, there were a number of bills, resolutions and legislative hearings on the subject of electric rates, including initiatives urging, requesting or demanding the KCC undertake a comprehensive rate study of electric rates. During the interim, the KCC did conduct a comprehensive rate study of the two-leading investor-owned electric utilities serving Kansas, and their report was previewed for this committee as well as its counterpart in the House.

That study included more than 125 pages of comprehensive review, comparison and analysis of Kansas electric rates for the period of 2008-2018 and compared and contrasted the operations and rates of KCP&L/Westar with 23 electric companies operating within the Southwest Power Pool.

First, we believe the findings of the KCC study regarding electric rates in Kansas merits some review:

- Rates have increased for KCP&L and Westar customers due to investments in generation and state and federal-mandated environmental improvements.
- Increase in Net Power Production expense (e.g., reduced load).
- Loss of retail sales due to higher-cost generation (e.g., coal vs. gas vs. wind).
- The allowed rate of return for KCP&L/Westar is 9.3%, which is significantly lower than peer utilities.
- From Page 7 of the study:

*Another important finding of the study is that the rate increases experienced by Westar and KCP&L over the last 10 years have not been due to mismanagement of overheads and discretionary expenses by these companies.*

KCP&L and Westar are in general agreement with the KCC study findings and filed their own complimentary study. In fact, the findings and conclusions made in the KCC study are likely consistent with most electric utilities providing service in Kansas and certainly applicable to Liberty Utilities – Empire District.

A review of the rate history for Liberty Utilities – Empire District would provide a similar picture. In December 2018 the company filed a rate case with the KCC to reflect an investment of over \$566 million systemwide in its generation fleet, transmission and distribution system. The last increase in base rates for Liberty – Empire customers was January 1, 2012. Liberty’s current regulator agreed-upon allowed rate of return is 8.4%.

After release of the KCC study, critics charged the study was flawed because it did not contain recommendations for lowering rates. This is somewhat misleading, given the fact that the critics are always an integral part of any rate case before the KCC (Kansas Industrial Consumers Group and CURB). Over the last twelve years, members of and attorneys for the Kansas Industrial Consumers Group, CURB and other companies and stakeholder groups testifying on this bill have been active participants in nearly every single case, docket and proceeding in front of the KCC. And, in the majority of those cases, settlements were reached—meaning the very same critics of the KCC study and rate increases in Kansas were not only part of the process but often agreed with the outcomes of those cases. Yet, now those same parties are advocating for a complete change to the regulatory process while criticizing the KCC, electric utilities and the KCC study. Media reports included comments of, “We don’t care what the study says, we just want lower rates.”

So now we have SB 69, which is no doubt intended to give the proponents what they want – justification for lower rates for their special interests and class of customers.

We believe SB 69 is a flawed attempt to rewrite the facts in favor of the proponents for any number of reasons, but will identify a number of them for your consideration:

- The two largest electric providers in the state have already been subject to a comprehensive rate and operations study by the Kansas Corporation Commission. SB 69 does not consider what has already been reviewed in the KCC nor its findings.
- SB 69 proposes to study the rates of public utilities exempt from KCC regulation.
- The bill would charge the Legislative Coordinating Council with selecting an “independent organization or organizations” to perform a study. This process does not insure an unbiased entity will be chosen. The KCC is the proper entity for such a study.
- The study allows input from residential, commercial and industrial customers and “advanced energy stakeholders,” yet only allows utility input “when requested.”
- Proponents argue for the need to look forward in regard to rates, yet they seek to review the same history of rates reviewed in the KCC study plus two more years back.
- The study would compare rates of utilities operating in Kansas with the rates charged in surrounding states with no assurance of an “apples-to-apples” comparison (e.g., “rates charged” is simply cost without language related to load, fuel mix, population, customer mix, taxes, environmental mandates, regulatory framework, weatherization issues, etc.).
- Environmental issues (e.g., mandated environmental investments and upgrades) are to be evaluated with the vision of hindsight, as reference is made to whether Kansas utilities “employed similar strategies” to other states.
- The study also calls for a review of certain expenses made by public utilities that are not paid for by the ratepayer. The bill proposes fishing into compensation of employees, employment of lobbyists, travel & entertainment expenses, trade association meetings, research costs/support of the Edison Electric Institute costs, donations and contributions to political, charitable, civic and social organizations and so forth. The proponents seek such non-rate information as a means to 1) Get information they have not been able to get through a rate case; and, 2) Draw attention to expenses that are unrelated to rates in an attempt to taint the jury pool – the Kansas Legislature and the public.
- SB 69 proposes to alter longstanding standards for ratemaking that are utilized in virtually every state in the ratemaking process – “just and reasonable” and mandate benchmarking Kansas rates with surrounding states absent any standards. Such a comparison would necessarily require a comprehensive study as the KCC performed for KCP&L and Westar for every rate case going forward.
- SB 69 then imposes new standards for rates with a standard that has nothing to do with the ratemaking process – benchmarking rates to the Consumer Price Index. Such an arbitrary standard does not take into consideration all of the cost factors that should be considered in the ratemaking process.

Electric utilities are motivated to work to keep rates at the lowest possible cost. We recognize this is an important issue for our State and welcome fair and impartial review of our industry. SB 69 does not meet that standard.

We would also note:

- In the Kansas Chamber's Survey of 300 Business Owners and Leaders in Kansas conducted in November, under the Most Important Issues for Kansas Business (Open Ended), utility rates did not make the top 8 items enumerated. Under the subject, Most Important to Profitability, "Reduce Fuel/Energy Costs" was Number Nine on the list, the last one noted.

Liberty Utilities, KCP&L and Westar would urge the Committee to keep in mind who is seeking this legislation and understand their ultimate objectives: Reduction of their rates at the expense of commercial and residential customers. Committee members will recall the KCC staff's testimony when asked what would happen to rates for other classes if the rates for one class were reduced? The answer was clear – they would increase.

The proponents know what they want a study to say, but unfortunately the one thing the KCC did not do was give them the answers they seek, so they are now trying to get customers to pay \$1 million or more for a study designed to give them the answers they want.

The committee is aware of a competing bill proposed by the electric industry that is scheduled for hearings on Thursday of this week. Should the Legislature deem further study of electric rates be necessary after careful consideration of the KCC report and testimony on SB 69, we would suggest a task force as described in SB 181 is the appropriate course of action. A process that involves legislators and stakeholders working collectively to find answers through a process all believe is fair.

Should the committee believe a study as suggested by the proponents is necessary, we would suggest the KCC should be given that responsibility through an open docket procedure.

We would be pleased to stand for questions at the appropriate time.

Thank you.

Whitney Damron and Chuck Caisley

[www.empiredistrict.com](http://www.empiredistrict.com)

[www.westarenergy.com](http://www.westarenergy.com)

[www.libertyutilities.com](http://www.libertyutilities.com)

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