



**Written Only Opponent Testimony
HB 2180– Prohibition of Transmission Delivery Charges**

**House Committee on Energy, Utilities and Telecommunications
February 11, 2021**

**Provided by Leslie Kaufman, Vice President of Government Relations & Legal Counsel
Kansas Electric Cooperatives, Inc.**

Chairman Seiwert and members of the House Committee on Energy, Utilities and Telecommunications, thank you for the opportunity to offer opponent testimony and note some concerns with HB 2180. I am Leslie Kaufman, Vice President of Government Relations & Legal Counsel.

KEC is the Kansas statewide service organization for 27 electric distribution cooperatives and three generation and transmission cooperatives. KEC represents the interests of, and provides needed services and programs to, the electric co-ops that serve rural Kansans. Our major programming areas include advocacy, education, and communications. Cooperatives provide electric service to consumer-members spread over nearly 75 percent of Kansas in 103 of the 105 counties.

Current law affords electric public utilities the statutory right to recover transmission-related costs through a transmission delivery charge (TDC) (K.S.A. 66-1237). Under this provision costs approved by another regulatory authority, such as the Federal Energy Regulatory Commission (FERC) may be passed through for recovery from retail customers without incurring the time and expense of a full general rate case before the Kansas Corporation Commission (KCC/Commission). HB 2180 removes a utility’s “right to implement a transmission delivery charge through an application to the commission” and requires a full-blown KCC rate case for recovering these costs. If a utility already has a TDC, HB 2180 requires the utility to file a full general rate case in order to adjust the TDC to reflect changes in transmission costs approved by another regulatory authority.

The TDC is not an additional charge, rather it is a charge unbundled from the existing rates and stated as a separate charge. The existing rates are reduced to reflect the amount collected from the TDC. It is a transparent and efficient cost recovery mechanism.

- **Transparent** - Without a TDC, these transmission-related costs are bundled in and recovered via the traditional retail rate. Employing a TDC results in these charges being unbundled from the existing demand or energy charges to identify transmission-related costs.
- **Efficient** - These transmission-related costs incurred by an electric utility resulting from a regulatory order “shall be conclusively presumed prudent.” Since they are deemed prudent and recoverable, a TDC is an efficient method to recover a cost that would otherwise be subject to a lengthy and more costly KCC rate procedure but does it in a more cost-efficient and timely manner.

- **Verifiable** – The current TDC mechanism is not without KCC oversight. Currently, a utility’s initial TDC is set during a traditional rate case proceeding or by application to the KCC. Thereafter, a utility may change its TDC upon 30 days’ notice to the KCC whenever the SPP (or similar entity) assesses or imposes FERC-approved costs on the utility. By statute, such assessment or imposition of costs is deemed prudent; however, the statute also provides that the KCC may require changes to a utility’s TDC if the costs that were flowed through the TDC mechanism are not in line with the costs allowed to be recovered as provided in the statute.

Cooperatives are electric public utilities as defined in K.S.A. 66-104 (K.S.A. 66-101 refers to 66-104). Cooperatives have the ability to elect out of Commission rate jurisdiction pursuant to K.S.A. 66-104d and all Kansas electric co-ops have done so. However, co-ops may elect to opt back into the KCC’s jurisdiction and there is the potential for cooperative’s member-consumers to petition for rate review by Commission.

We appreciate how the primary proponent of this bill attempted to exclude cooperatives and non-profit entities owned by a cooperative. They have also been willing to dialogue with us when we had questions after seeing the bill in print. But, we note the following:

1. The legislature has previously recognized, through enactment of K.S.A. 66-1237, that a **TDC is good public policy**. It is a cost-effective mechanism to recover transmission-related charges associated with providing efficient and sufficient electric service.
2. A **TDC helps prevent rate shock** by keeping pace with these transmission cost changes.
3. **Full rate cases take time and are expensive**. This is partly why cooperatives sought self-regulation 29 years ago. In cases where the TDC charge would decrease, waiting to plod through a rate case delays consumers’ access to a lower rate.
4. The current **TDC mechanism still retains the protections of KCC oversight**. Currently, a utility’s initial TDC is set during a traditional rate case proceeding or by application to the KCC. Thereafter, a utility may change its TDC upon 30 days’ notice to the KCC whenever the SPP (or similar entity) assesses or imposes costs on the utility. By statute, such assessment or imposition of costs is deemed prudent; however, the statute also provides that the KCC may require changes to a utility’s TDC if the costs that were flowed through the mechanism are not in line with the costs allowed to be recovered as provided in the statute.
5. Elimination of the TDC apart from a rate case directly impacts rate jurisdictional electric utilities, but it indirectly impacts cooperatives. Co-op members always retain the ability to re-elect to return to KCC rate jurisdiction. Should this bill pass, **a co-op that elects KCC regulation in the future will have lost the opportunity to avoid costly rate cases for adjustments on pass through costs that the utility has little, if any, ability to control**.
6. More directly for co-ops, **eliminating the TDC, except where approved in a rate case, may influence the “just and reasonable” analysis co-ops would be subjected to currently** if a petition for rate review was ever filed with the KCC. Even if co-ops have the right to set their own rates and rate structures, the Commission could find that the TDC is not “just and reasonable” where the legislature had specifically revoked the authority unless approved in a rate case.

7. Requiring a full general rate case to recover these approved transmission costs could result in other retail rates being raised that otherwise would not have occurred if only the TDC adjustment were allowed. This is especially likely during times when overall costs of a utility are increasing.

Although the summary of concerns noted above is not exhaustive, it does illustrate some of the significant pitfalls inherent in only allowing a TDC through a full rate case. As such, we respectfully request the committee refrain from advancing this legislation.

We thank you, again, for the opportunity to share our concerns. If you have any questions for us, please feel free to contact us.

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