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**BEFORE THE SENATE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
March 14, 2005
HB 2465**

Thank you, Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2465.

This legislation proposes to modify K.S.A. 66-1237 which was enacted by the 2003 legislature by limiting the amount of time the Commission has to review and approve an electric utility's application to recover its transmission costs through a separate delivery charge. The Commission opposes this legislation.

K.S.A. 66-1237, as currently enacted, requires the Commission to allow an electric utility to institute a separate transmission delivery charge. This is done in two phases. The first, as detailed in section "a" of the statute, requires an electric utility to file a proposal to recover its transmission costs through a separate charge. The Commission is required to establish the surcharge so that the utility's current rates are reduced such that the charge plus the reduced rates are equal to "the revenue recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge."

The second, or ongoing phase, as detailed in section "b" of the statute, allows the electric utility to change the transmission charge based upon an order of a "regulatory authority having legal jurisdiction over transmission matters." This is a reference to charges that could be imposed, for example, as the result of actions of the Federal Energy Regulatory Commission

(FERC) or a Regional Transmission Organization. In this case the utility has to file a report with the Commission 30 days prior to changing the utility's transmission delivery charge.

This bill, as amended, proposes to establish a 120 business-day time limit on the Commission's decision regarding the initial, or "first phase" filing, and a 90 business-day time limit for Commission action on ongoing or "second phase" filings. The Commission believes these time limits are unneeded and would create complications and unintended consequences for utilities, ratepayers and the Commission. .

The purpose of the initial filing is to establish an unbundled transmission charge through a revenue-neutral change in the electric utility's rates. This is not a simple process, and while it involves no loss or gain by the electric utility itself, if it is done incorrectly, it can have a dramatic impact on the individual customer. To understand this problem it is necessary to understand the process that generally occurs in establishing utility rates.

Utility rates are established by first reviewing the utility's annual revenue requirement. The utility's annual revenue requirement is essentially the amount of money that the utility needs to collect through rates every year to cover its expenses and to allow its investors a return on their investment. After determining the amount of annual revenue requirement, the next task is the difficult one of rate design, or how to recover the annual revenue requirement from customers of various classes, such as residential, commercial and industrial. Normally utility rates are designed to allocate costs to the customers based upon the principle of "cost causation." This is accomplished by a class cost of service study. This study determines the cost to serve each individual utility customer class. While rate design is always difficult and somewhat subjective, the overall purpose is to properly assign the utility's costs to each customer in a manner that best reflects the cost of providing service to that customer. While the utility and Commission Staff and interveners often have different ideas regarding revenue requirements and rate design, in the end, the utility is generally indifferent to small changes in the rate design itself. The reason is quite simple. The utility recovers the same annual revenue requirement regardless of the rate design.

The language in K.S.A. 66-1237 explicitly requires that the initial transmission surcharge is to be revenue neutral, but that doesn't mean that determining how to implement this requirement is simple, either for the utilities or for the Commission. While it is generally not that difficult to determine what portion of the utility's revenue requirement is transmission related, how to carve that out of each customer's rate is not simple. Additionally, setting up this initial unbundled transmission charge is very important because it determines how the "ongoing" changes in FERC-approved transmission rates will be automatically passed through. Currently, for example, most residential electric customers pay a monthly "customer charge" and a rate based upon the kilowatt-hours, or energy, used. However, most transmission rates approved by the FERC are based upon a monthly demand rate. Fairly allocating this demand rate to residential, commercial and industrial customers is a task that requires a great deal of customer data and analysis. Yet, if this allocation is not done correctly, individual customers could see a substantial change in their monthly bills for the same level of energy consumption, even though the total revenue recovered by the utility remains the same.

As an example of how this works, suppose that, for whatever reason, a certain source of state revenue were no longer available, yet the legislature had to recover that revenue from other sources in a manner that required each taxpayer to pay no more or less than they did before. For the purpose of this example, suppose that gasoline taxes were no longer allowed. You can appreciate the difficulty in trying to replace this important source of revenue without changing the "impact" on any citizen or business. This is why the Commission is concerned that a 120 business-day time limit on the initial phase could hamper its ability to best revise rates in a manner that is revenue neutral to customers, as well as the utility.

Another reason the Commission objects to this proposal is that it is unnecessary and potentially confusing. 120 business-days is approximately 168-days. K.S.A. 66-117(c) establishes a 240 day limit for Commission action anytime a public utility files a "proposed change in rate, joint rate, toll, charge or classification or schedule of charges, or in any rule or regulation or practice pertaining to the service or rates of such public utility..." During the

hearing in the House Utilities Committee it was clear that proponents did not understand that the K.S.A. 66-117(c) 240-day time limit would apply to the K.S.A. 66-1237(a) initial filing and the K.S.A. 66-1237(b) subsequent filings. The Commission believes that both the initial and subsequent filings are clearly a proposed change in rates and schedules of charges and therefore the appropriate time limit is already addressed in statute, and that appropriate time limit is 240-days. Creating separate time limits for different types of filings creates unnecessary confusion and complication for both the Commission and utilities filing applications.

The Commission notes that HB 2465, as amended, establishes a time limit of 90 business-days to review subsequent filings under K.S.A. 66-1237(b). The standard established in K.S.A. 66-1237(b) for the Commission review is to verify that subsequent changes in the transmission delivery charge are “resulting from an order of a regulatory authority having legal jurisdiction over transmission matters...” There is little rationale for limiting the Commission’s ability to determine if proposed changes to the transmission charge truly reflect an order of a different regulatory authority. Unlike the effects of K.S.A. 66-1237(a), which merely establishes a revenue neutral change in rate design, changes in the transmission charge may truly reflect a rate increase, and the Commission’s ability to thoroughly investigate these changes should not be hampered by time limits shorter than the 240-days envisioned by K.S.A. 66-117(c). While the Commission does not foresee that these filings will normally require this amount of time, this process has not been done before and unforeseen circumstances could arise that require additional investigation.

Additionally, the Commission notes that no one can show that the Commission has not been diligent in expediting this review under normal circumstances, because no utility has even implemented the provisions of K.S.A. 66-1237. Certainly the legislature can always revisit this issue in the future if a problem does arise but for now this is a solution in search of a problem. Finally, I would point out that while setting these transmission charges may be a difficult process, it will not necessarily be a controversial one. Commission Staff is currently working with two separate electric utilities to determine just how to approach this issue. As each utility

has a different situation, each requires a different approach to getting the initial charge unbundled in a manner that is fair to both the utility and the customer

In conclusion, this bill is unneeded and would create complications and unintended consequences for utilities, ratepayers and the Commission.