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HOUSE COMMITTEE ON ENERGY, UTILITIES & TELECOMMUNICATIONS

Neutral – Written Only Testimony HB - 2589 – Liability Limitations for Utilities Granting Law Enforcement Access to Utility Poles

Feb. 8, 2024

Presented by:
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Chairman Delperdang, Vice Chair Turner, Ranking Member Ohaebosim, and members of the House Committee on Energy, Utilities, and Telecommunications, thank you for the opportunity to submit written comments as a neutral conferee and suggest some further considerations regarding HB 2589. I am Reagan McCloud, Manager of Government Relations for Kansas Electric Cooperatives, Inc. (KEC), the statewide service association for 29 member, not-for-profit cooperatives providing electric service in 103 of 105 Kansas counties.

We appreciate that this bill is designed to provide some protections from liability for utilities that may want to allow law enforcement to access utility poles for law enforcement equipment. We also appreciate that this bill does not create a mandate on utilities by requiring them to attach law enforcement equipment to their poles and the ability to continue negotiating terms, specifically those related to safety, in pole attachment agreements with law enforcement.

Some cooperatives have, or may, choose to enter into agreements allowing law enforcement access to utility poles. Certainly, whether there is a court order authorizing certain uses of the attached law enforcement equipment is a key consideration.

As we read the bill, there may be aspects of the bill that deserve further consideration, including:

- What if the utility is pulled into litigation where law enforcement is found not to be liable under the Kansas Tort Claims Act?
 - The utility may still have incurred significant legal expenses regardless of the final court determination.
- The bill does not appear to allow for cost recovery for “operating” the equipment, only installation, maintenance, and removal.

- Can the utility bill law enforcement for any energy consumed in operating the equipment?
- What if the utility incidentally traverses private property to access the public right of way? Are protections still available?
- Some terms are undefined, or the definition does not exactly match other statutory definitions of a term.

Thank you again for the opportunity to share our comments regarding HB 2589. We are certainly willing to work with the Chairman, this Committee, and interested parties to work through any questions raised here or by others.

I would stand for questions at the appropriate time.

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