



*Testimony Provided to the*  
**Senate Utilities Committee**  
January 25, 2018

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### **Testimony in Support of S.B. 293**

Kansas Power Pool (KPP) is a municipal energy agency formed under Kansas Statute comprised of 24 municipal electric utilities in Kansas. As a not-for-profit agency, it was created in 2005 by member utilities for the purpose of securing power supply and related tasks incident to providing low-cost and reliable wholesale energy to be resold to each municipal's citizens and businesses. As a quasi-municipal agency, KPP is subject to both the Kansas Open Meetings Act (KOMA) and the Kansas Open Records Acts (KOMA). KPP strongly supports the passage of Senate Bill 293.

**Background:** KPP is headquartered in Wichita and employs a staff of 7 people including operations personnel, accounting and member services. Our 24 members are found across Kansas, with a majority located in the north central and south central part of the state. Together, their citizens' needs for electric power combine to require an operating budget of approximately \$75 million. Power and energy is produced by a combination of owned assets, contract resources and locally owned resources pooled by the members themselves. With guidance from the membership, KPP has a diverse portfolio of resources from natural gas, hydro, wind and coal. Twenty percent of KPP's energy portfolio is renewable. All members have secured transmission rights through KPP's Network Integrated Transmission Services Agreement (NITSA) with the Southwest Power Pool (SPP).

By law, all municipal utilities in Kansas are allowed to have membership in KPP. This is reflected in the primary governing document approved by the Attorney General and unanimously approved by all members. Next, members acquire voting rights through a comprehensive operating agreement setting forth governance among the membership and declaring the mutual expectations. Additionally, all KPP members have signed a long-term, full-requirements contract for power purchase. These contracts were presented and individually approved by the

governing bodies of the member cities. Accordingly, KPP does all related forecasting of energy needs. By agreement, KPP secures power supplies for all cities doing so within the configuration of the SPP Integrated Market.

As directed in statute, KPP is governed by a Board of Directors selected both from and by the membership. Each member city's governing body appoints a delegate to the KPP membership committee. The Board of Directors approve the annual budget and set operating policy. The membership committee annually oversees the review of operating costs and gives formal approval on electric rates before they are implemented.

**Process examples:** Only two examples are given regarding the approval process for rate setting and the incurrence of investment:

**Example 1: Rates.** Each November all members assemble for an annual Rate Forum (an Open Meeting). Careful review is made of the financial performance of the previous year. Also, focus is given on the methods for forecasting upcoming operating expenses and revenues. A proposed budget and subsequent wholesale electric rates for the next year is presented in draft form. Members ask questions and subsequently review the budget forecasts and rate proposals with their governing bodies. After reviewing comments and Input from members a final budget and the resulting rates for the following year is prepared. Members again assemble in December at the annual membership meeting (an Open Meeting) where formal action is entertained to approve the rates.

**Example 2: Power Supply.** In September 2014, members assembled at KPP's annual Fall Planning Retreat (an Open Meeting) to discuss critical and competing power supply alternatives. Members directed KPP Staff to pursue due diligence on a preliminary intent to purchase an additional 20 Megawatts of the Dogwood Combined Cycle Plant. At two subsequent meetings of the membership during 2014 and 2015, members were fully updated on the economics, projected rate impact and expected operating parameters of the asset to be purchased. Following input taken from those meetings, the Board of Directors voted unanimously in 2015 to sign an Asset Purchase Agreement and to issue bonds.

**Benchmarks:** An independent audit occurs annually with formal report made to the Board of Directors. Audit results are published to ratings agencies and others. Infrequently, KPP will seek an independent cost-of-service analysis. KPP periodically updates its 10-year forecast on expenses and revenues. At least twice annually, KPP meets with member cities' City Councils or governing bodies to update on all activities and to take input. Monthly, KPP speaks by telephone with its members to review various cost components of the monthly bill and compare actual costs to those budgeted.

**Conclusion:** Although statute provides for regulation over municipal energy agencies (MEAs), the KCC has never asserted jurisdiction. On September 11, 2008 KPP asked the KCC to review and approve its operating agreement after being told by KCC Staff this was all that was legally required by the KCC. On March 10, 2009 the KCC issued a 4-page Order approving the

operating agreement and only requiring the KPP to notify the KCC with changes in membership. That order is attached for your reference. Earlier this month, the KCC issued an order asserting almost complete jurisdiction over every facet of KPP's operations. In response, S.B. 293 seeks to clarify the extent to which the KCC should regulate these agencies. The Committee is reminded that municipal energy agencies have been created by the governing bodies of their own member cities. It is the members who set policy, set rates and determine governance. It is this mechanism that has saved Kansas communities millions of dollars in energy costs.

The KCC's order will significantly increase costs to customers served by cities that are part of municipal energy agencies. Municipal utilities make strategic decisions to achieve low cost for their rate base of citizens. Low cost among municipals is well demonstrated in the State of Kansas. Additional regulation not only slows down the time needed to effectively budget, but also increases the cost of providing services. For these reasons we respectfully ask for Committee members' unanimous approval to pass S.B. 293.

Thank you for your consideration.