



**Liberty Utilities**<sup>®</sup>  
EMPIRE DISTRICT

**OPPOSITION TESTIMONY**

**Senate Committee on Utilities**

**SB 198**

**An Act concerning electric utilities; relating to the state corporation commission;  
Authorizing the approval and issuance of K-EBRA bonds;  
financing costs of electric generation facilities.**

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

**March 12, 2019**

Good afternoon Chairman Masterson and Members of the Committee:

I am Whitney Damron and I appear before you today in opposition to SB 198 on behalf of Liberty Utilities – Empire District.

SB 198 would introduce a complex financing mechanism with unproven merit into the realm of cost-recovery financing of utility infrastructure and we believe this will not be beneficial to our customers or the company. We therefore are opposed to SB 198.

Securitization of an asset is not new or unique to utilities. However, legislative initiatives introduced throughout the country in the past few years similar to SB 198 not only would create an ability for a utility to decide whether securitization made economic sense for the company and its customers (voluntary securitization), but would also create a process where securitization could be imposed upon a utility irrespective of its financial condition, investment strategy, financing options, energy mix and any number of other factors that a utility must factor into any decisions for investment and asset management (involuntary securitization). A forced securitization would disrupt the regulatory compact between utilities, regulators and rate-recovery mechanisms and discourage utility investment in the state.

There are instances where a utility might seek to utilize securitization as a financial tool and current law would allow for regulatory consideration of such a proposal. For example, a utility might seek authority for the bonding of a particular transaction or finance a stranded cost on a more efficient and customer-beneficial manner than traditional cost-recovery mechanisms. Such a transaction should be developed through an open process before the state corporation commission and voluntary on the part of the utility.

Under SB 198, a utility could have a securitization obligation placed upon it by the State through a complex bonded indebtedness scheme, yet the utility remains responsible for all financial risk involved with the transaction, not the State. Terms and conditions imposed under a forced securitization could negatively impact a utility's financial stability.

Current law and regulatory processes have not been shown to be needing such a drastic change. Utilities work with their regulator to plan for load requirements and investments must be made in a prudent manner. Regulatory lag in the imposition of cost recovery allows the KCC to review the prudence of investment and allow for recovery as appropriate with input from KCC staff, CURB, intervenors and the public.

To be specific, we offer these comments:

- The use of K-EBRA bonds should be voluntary for a utility.
- Cost recovery should not be limited or negatively impacted should a utility choose to not utilize a K-EBRA process.
- If a utility chooses to not utilize a K-EBRA mechanism, they should be allowed to continue to recover costs as previously approved by the KCC.
- A utility should be allowed to negotiate terms for a K-EBRA securitization program with KCC approval, but not "oversight and control."
- The Legislature should be concerned, as we are with allowance for "transition assistance costs" to "Kansas communities and electric generation facility workers that are directly impacted by the retirement of electric generation facilities."

SB 198 contains many other issues far too challenging to cover in a legislative hearing.

SB 198 is a complex piece of legislation and deserves significant scrutiny by all parties concerned – State Corporation Commission, investor-owned utilities and impacted third parties as well as input from competent (and disinterested) bond counsel, experts in utility finance and others. On its face, SB 198 could have a substantial impact on Kansas electric IOU's and impact current and future investments in generation as well as destabilize the financial condition of affected companies.

Liberty Utilities has been a part of the stakeholder discussions over SB 69 and have negotiated in good faith with the proponents of that bill. We have agreed to support a study if done in a fair and impartial manner and believe SB 69 can do that. We do not believe the Legislature should undermine that process by passing legislation such as SB 198 or other proposals that presuppose what the findings of SB 69 might conclude or recommendations that might come from such a study.

SB 198 is a part of an agenda by special interests who want to impose a national agenda for utility investing practices that ignore specific requirements and needs of Kansas investor-owned electric utilities.

We ask the Committee to reject this legislation and give the study proposed in SB 69 a fair opportunity to succeed.

Thank you. I would be pleased to stand for questions at the appropriate time.

Whitney Damron

## About Liberty Utilities:

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).