

**BEFORE THE SENATE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
March 9, 2004
Substitute HB 2516**

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 provide comments on Substitute HB 2516.

This bill contains numerous provisions providing incentives for electric transmission and generation. While we generally support the intent of this legislation, we do have concerns and recommendations regarding three sections of the bill.

Section 3 of the Bill

Section 3 of the bill requires the KCC to allow recovery of capital expenditures for construction or upgrades of transmission facilities over a period of 15 years. We have two concerns with this section of the bill. First, allowing accelerated recovery of any utility asset is effectively discriminating between generations of ratepayers. Today's ratepayers end up paying for the benefits received by future ratepayers. This is a departure from sound ratemaking principles. Nonetheless, we recognize this accelerated recovery is occasionally allowed by policy makers to provide incentives for improvements that they believe are in the public interest.

The second concern involves jurisdiction. Incentives for transmission facilities at the state level may have little or no affect on the majority of electric transmission owners in Kansas. Last year the Legislature passed HB 2130 which required the KCC to allow electric utilities to pass through transmission charges approved by the Federal Energy Regulatory Commission (FERC). The majority of Kansas transmission owners are

obligated under regional and federal proposals to deliver transmission service to their retail customers under transmission tariffs approved by the FERC, and HB 2130 codifies those initiatives to pass through FERC-approved transmission charges to Kansas retail customers. While section 3 of this bill envisions the KCC allowing accelerated depreciation recovery in retail transmission rates, the reality is that last year's legislation and current practices dictate that these rates will likely be set by the FERC. As a result, this section of the bill will have no real effect or incentive on most Kansas electric transmission owners.

Nonetheless, to the extent the KCC has jurisdiction over transmission rates, it would appear to make more sense to allow the KCC to consider federal policies and incentives, whatever they may be, either now or in the future, when considering state rate treatment of similar assets. To the extent the KCC has jurisdiction over similar transmission assets, the mandatory provisions under Section 3 of this bill could actually prevent the KCC from coordinating such initiatives. For these reasons we recommend that this section of the bill be removed, or, as an alternative, that the word "shall" be changed to "may" on page 1, line 42 of Substitute HB 2516.

Section 7 of the Bill

Section 7 of this bill provides an incentive for electric utilities to construct generating plants in certain counties by allowing the utility to retain benefits equivalent to 10% of the net revenues from sales of electricity generated in Kansas and sold outside of the state. In most rate cases, the KCC uses revenues generated from off system sales to offset the costs of a utility's generating units, thereby reducing the burden on the utility's ratepayers. This section of the bill envisions an incentive that would allow the

utility's shareholders to keep a portion of these revenues. While we recognize that the Legislature may desire this incentive, we are also obligated to note that the utility's ratepayers would pay for this subsidy.

As an alternative we would recommend that the word "shall" on page 3, line 18 of Substitute HB 2516 be changed to "may". This would give the Commission discretion in allowing such an incentive, and make the language similar to that of K.S.A. 66-1,184a, which grants the Commission discretion in allowing a utility to retain off-system sales revenue for purchasing renewable energy.

Section 8 of the Bill

This section of the bill would require the KCC to allow electric utilities to include in rates certain expenditures on research and development by nationally recognized research centers. We have two concerns about the wording of this section of the bill. First, we would note that the KCC has traditionally allowed such expenditures, and we are concerned that this bill would make such allowances mandatory. Mandatory provisions could affect the KCC's ability to protect ratepayers in certain circumstances. Second, we note that the exact language of the bill qualifies expenditures "... for research and development by the utility or for investment in research and development by research centers determined by the commission to be nationally recognized." Under this language the only determination by the Commission is that the research center be nationally recognized. This language could be misconstrued to allow utility recovery of research and development expenditures even if such research was not at all related to provision of utility service, as long as the center itself were "nationally recognized."

We believe our concerns can be easily addressed by providing the KCC with discretion to review and allow, or disallow, such expenditures. We recommend that the word “shall” on line 25, page 3 of Substitute HB 2516 be changed to “may.”