

**JOINT TESTIMONY SUBMITTED TO THE  
SENATE UTILITIES COMMITTEE**

**SB 310**

**By**

**Kansas Electric Cooperatives, Inc.  
Kansas Electric Power Cooperative, Inc  
Sunflower Electric Power Corporation**

**February 5, 2004**

Thank you, Mr. Chairman and members of the Committee for providing us an opportunity to speak today on Senate Bill 310, a proposal to codify the Kansas Corporation Commission's authority to ensure that a public utility, as defined in K.S.A. 66-104 does not use regulated operations to subsidize non-regulated activities of such utility or to subsidize activities of an affiliated entity. My name is Stuart Lowry. I am corporate counsel for Kansas Electric Cooperatives, Inc., the statewide association of electric cooperatives in Kansas.

The study of the issues addressed in SB 310 actually began on June 6, 2003, when the KCC Staff issued a draft of proposed affiliate regulations. On July 10, 2003, the KCC held an informal roundtable discussion during which the Commission heard the comments, concerns and suggestions of the participants concerning the Commission's draft of the proposed affiliate regulations.

During this proceeding joint comments were offered to the KCC by the Kansas Electric Cooperatives, Inc., Kansas Electric Power Cooperative, Inc., Kansas Municipal Energy Agency, Inc., Midwest Energy, Inc., Pioneer Electric Cooperative, Inc., Sunflower Electric Power Corporation, and Wheatland Electric Cooperative, Inc. regarding the proposed affiliate regulations. Each of these entities is a consumer-owned electric utility. The activities and affairs of each of these consumer-owned utilities are governed by representatives elected from among the consumer-owners. In the case of an electric cooperative, the affairs and activities of the cooperative are governed by a board of trustees elected from among the membership. In the case of a municipal supplier, the affairs and activities are governed either by a board of public utilities or by the city council or commission. Due to the unique ownership and governance of consumer-owned utilities, we do not believe that incentives exist for subsidy abuses because the owners of the public utility are one and the same as the consumers.

Moreover, Senate Bill 310 and the proposed affiliate regulations also present unique operational problems for the consumer-owned segment of the industry. For example, electric cooperatives are member-owners of many other entities organized on a cooperative basis that provide various services to the electric cooperatives, such as insurance services (Federated Rural Electric Insurance Exchange), data processing services (National Information Solutions Cooperative), fuel procurement services (Western Fuels Association), generation resource management and consulting (ACES Power Marketing), financing (National Rural Utilities Cooperative Finance Corporation, and CoBank), telecommunication services and Internet access (National Rural Telecommunication Cooperative) and association services (National Rural Electric Cooperative Association, and Kansas Electric Cooperatives, Inc.). Our concern was that the result of Senate Bill 310 and the KCC's proposed affiliate regulations would be that each of these entities would be affiliates, and thus regulated under the rule.

Since the bill introduction we have worked with the KCC to address the unique concerns of the member-owned segment of the electric utility industry in Kansas. We believe the bill as modified and presented to you today by the KCC addresses these concerns. As you can see, the electric cooperatives would not be subject to the proposed KCC rule, the intent of which is to allow the KCC stand-alone authority to address issues arising out of subsidies to non-regulated activities and affiliated entities. The KCC would, however, be able to address any subsidy concerns specific to electric cooperatives in the context of a rate proceeding.

This approach is similar to the approach utilized by the State of Missouri where the affiliate regulations do not apply to municipal suppliers or electric cooperatives.

We thank you for the opportunity to comment and explain the bill modifications described in the testimony of the KCC.