



Testimony Before the

Senate Utilities Committee

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House Bill 2047 – Municipal Energy Agency

Kansas Municipal Energy Agency (KMEA) was established in 1980 under the authority of enabling legislation 12–885 to 12–8,111 enacted in 1977 and consists of 70 member cities throughout the State.

KMEA is a non-profit organization governed by our member cities -- somewhat like a cooperative for municipalities. KMEA's primary mission is to assist our members in providing reliable and economical electric power to their community. During the last few years and most recently in January our Mutual Aid Program, which has been accepted by FEMA, has assisted cities in service restoration during tornados or ice storm related outages.

House Bill 2047 addresses several issues that over the past twenty-eight years have become outdated and restrictive as the electrical industry has changed.

The proposed revision in K.S.A. 12–891 eliminates residency requirements of board of directors and removes the minimum number of director's requirement. Currently each member city has two board positions available to them with alternates if they choose. While the minimum of seven directors is not a restriction it appears to be an unnecessary requirement.

Historically, most cities required employees to reside in the city limits. However, today many member cities have qualified employees who reside outside the city limits. In some cases the most qualified city employee is precluded from representing their city at KMEA. KMEA believes that establishing the qualifications for the board member in the bylaws would be adequate to protect its member cities.

The proposed revision is K.S.A. 12-896 is the most critical requested change. Under the cash-basis law, KMEA cannot issue a letter-of-credit without having unencumbered cash deposited into a commercial bank as security for the bank issuing a letter-of-credit on behalf of KMEA. Although KMEA has no debt, we also do not have a large amount of excess cash on hand as we refund excess revenue to our member cities each year.

In recent years, the regional transmission organization -- the Southwest Power Pool (SPP) -- whom KMEA is securing long term firm transmission have requested a letter-of-credit within a short time span. Under the cash-basis law, KMEA has the choice of either (i) depositing cash with SPP and accepting the credit risk of SPP not being able to repay the money or (ii) depositing unencumbered cash into a commercial bank as security. Our concern is that if SPP requires a large letter-of-credit within 15 days, KMEA and its member cities might not be able to raise adequate funds timely and lose out on a potential beneficial electrical transaction. If the cash-basis law was not applicable to KMEA, we would have the option to sign a Reimbursement Agreement with a commercial bank under which KMEA promises to reimburse the bank for any payments under the letter-of-credit. KMEA could then collect money from its participating member cities in an orderly manner that would not impose such an immediate burden on any member municipality.

The revision to K.S.A. 12-8,104 is a clean-up issue. As written, the section requires that KMEA file under the uniform commercial code to perfect any security interest of a bondholder or trustee in personal property or fixtures. KMEA believes that the bondholder or trustee should be able to determine whether a filing under the uniform commercial code is required for each particular transaction. The requirement should be eliminated.

Passage of this bill has support from the Kansas Municipal Utilities (KMU), South Central Municipal Energy Agency (SCMEA), and the Kansas Power Pool (KPP).

Kansas Municipal Energy Agency (KMEA) recommends passage of House Bill 2047.