

To: House Taxation Committee

From: Atmos Energy; Black Hills Energy; Empire District Electric Co.; Kansas City Board of Public Utilities; KCP&L; Kansas Electric Cooperatives, Inc.; Kansas Gas Service; Kansas Municipal Utilities; KEPCo; Midwest Energy, Inc.; Westar Energy

Re: HB 2177 - Concerning sales and compensating use tax; origin sourcing.

Date: February 15, 2017

Chairman Johnson and members of the committee, thank you for the opportunity to provide written testimony regarding HB 2177 on behalf of the natural gas and electric utilities listed above. We are in **opposition** to the bill as it is currently written but would be **neutral** if the following amendment is included if the bill advances:

“For local sales tax purposes retail sales involving the use, consumption or furnishing of natural gas, water, electricity and heat shall be considered to have been consummated at the situs of the user’s meter or point of receipt and sourced accordingly.”

For sales tax purposes, Kansas has been a destination-based sourcing state since 2003 and was previously an origin-based sourcing state. Utilities, however, have utilized destination-based sourcing since the early 1970s. Destination-based sourcing is also consistent with the contractual obligations utilities may have in the respective city franchise fee agreement. The amendment provided is largely based upon Reg. 92-21-9 which established this practice.

If HB 2177 passed in its current form, that is, without language permitting utilities to continue to use destination-based sourcing as utilities have for over forty years, we would incur substantial conversion costs and complicated software changes, if even possible, to our existing customer billing systems. Compliance with the statute would also be needlessly complicated.

Some utilities with operations in multiple states may be required to use both sourcing methods. For instance, a home builder establishes natural gas service with a local office in Kansas and thus origin-based sourcing would be used. However, when a new tenant transfers the natural gas service using an out of state call center of the Kansas utility, then destination-based sourcing would be applied. This is one example of how varying applications of sourcing would be complicated.

The bill also lacks uniformity as some utility customers could be taxed differently depending on whether their order is placed in-state or out-of-state. Or, some Kansas customers could conceivably pay a destination-based sales tax for one utility service and an origin-based for another utility service.

We have shared our concerns and suggested amendment with the bill proponent and look to work with the committee on addressing this issue if the measure advances. Thank you again for the opportunity to provide comments and our organizations are happy to answer any questions you may have.