

Before the House Committee on Taxation

February 11, 2020

Neutral Testimony
On House Bill 2499

Submitted by Jeff McClanahan, Director, Utilities Division
On Behalf of
The Staff of the Kansas Corporation Commission

Chair Johnson, Vice Chair Mason, Ranking Minority Member Gartner, and members of the Committee, thank you for the opportunity to provide testimony to your Committee today on behalf of the Staff of the Kansas Corporation Commission (Commission).

The Staff of the Commission (Staff) is neutral regarding House Bill 2499 (HB 2499). However, Staff does want to inform the Committee that, under the Retail Electric Supplier Act, it is illegal for anyone other than the certificated electric public utility to provide retail electric service. Specifically, K.S.A. 66-1,172 states:

66-1,172. Division of state into exclusive electric service territories; certification of territories by commission; right to serve existing customers. Subject to the provisions of this act, the corporation commission shall cause the state to be divided into electric service territories. *Within each such territory, only one retail electric supplier shall provide retail electric service, and any such territory established for a retail electric supplier pursuant to this section shall be certified to such retail electric supplier by the commission and such area shall be provided retail electric service exclusively by such supplier.* Each retail electric supplier shall continue to have the right to serve all customers being served by it on the effective date of this act, except that such suppliers, by agreement approved by the commission, may otherwise provide for electric service to such customers. [Emphasis added].

History: L. 1976, ch. 284, § 3; L. 1978, ch. 270, § 1; L. 1986, ch. 249, § 1; L. 1987, ch. 257, § 1; April 23.

Because the electricity provided to end users through alternative-fuel fueling stations would be a retail electric sale under the Retail Electric Suppliers Act (RESA), any metered-for-fee public

access recharging system for motor vehicles propelled in whole or in part by electricity would violate provisions of RESA.

However, House Bill 2585 (HB 2585) is currently scheduled for a hearing in the House Energy, Utilities, and Telecommunications Committee on February 13, 2020. HB 2585 at Section 1(d)(2) has a proposed amendment that would exempt from the definition of a public utility “*electricity that is purchased through a retail electric supplier in the certified territory of such retail electric supplier, as such terms are defined in K.S.A. 66-1,170, and amendments thereto, for the sole purpose of the provision of electric vehicle charging service to end users*”. This amendment is intended to make it legal for third-parties to buy retail electricity from a utility and resell that electricity through an EV charging station in the utility’s certificated territory. Therefore, should HB 2585 be enacted by the legislature and the Governor, the provision of HB 2499 would no longer be illegal.