



*Evergy companies*

**Testimony of KCP&L/Westar (Evergy)  
Darrin Ives, Vice President, Regulatory Affairs**

**For the Senate Committee on Utilities**

**Opposed to SB126**

**March 20, 2019**

Chairman Masterson and members of the Committee:

Thank you for the opportunity to provide information on Senate Bill 126 (“SB126”), which would amend existing law concerning how utilities include income taxes in retail rates. SB126 has two significant components that I would like to address.

The first component requires Westar or KCP&L to include expenses related to income taxes as a component of our retail rates and to track any overcollection of those taxes due to changes in state or federal law. It also would require us to file new retail rates reflecting the lower income tax rates and refund the over-collected amounts within 30 days of the change in tax law. There is already a process used by the Kansas Corporation Commission (“KCC”) to address this type of change to corporate tax rates. It recently was effectively used to identify and refund the proper amount of income taxes that were over collected by utilities when the federal rate was reduced due to the Tax Cut and Jobs Act (“TCJA”), which was effective at the beginning of 2018. Westar and KCP&L have already refunded all amounts over-collected from this rate change by issuing customers credits on their bills (Westar \$50 million and KCP&L \$36.3 million). In addition, both companies have already reset their rates to reflect the changes in the federal corporate tax rate, which lowered rates by \$79.9 million and \$52.7 million annually for Westar and KCP&L, respectively.

Reflecting on customer bills a change in the tax rate in 30 days is an unreasonable and unattainable deadline. More time is needed to ensure that all parties (the utility, the KCC, and other interested parties) have a chance to review and determine whether the adjustments are accurate. It may also be necessary to consult with the IRS to ensure that legislation does not create any violations of federal rules. The current process utilized by the KCC for the federal tax rate reduction under the TCJA was effective and allowed for just such a review.

In addition, this legislation only addresses a reduction in income tax rates. Any such legislative change should also consider if and when income tax rates increase, because that can happen as easily as a reduction.

The second, and more concerning, component of SB126 stipulates that for tax years 2019, 2020, 2021 and 2022, every electric and natural gas public utility that is investor-owned and subject to the jurisdiction of the KCC would be exempt from paying Kansas income tax and could not collect Kansas income tax expenses as a part of its retail rates. While the company is generally in favor of lower corporate tax rates, an exemption from Kansas income tax for even a few short years would create confusion and disruption for individuals and businesses when the rates decrease upon implementation and then dramatically increase at the end of this period. We have heard repeatedly from customers that this type of electric rate volatility is disruptive and difficult to plan for. It could also negatively impact economic development if new business entrants to Kansas are concerned with such rate volatility.

Minimizing electric rate volatility is precisely why both companies follow widely accepted rate-making principles for the collection of income taxes. The current method used to “normalize” Kansas income taxes in rates smooths out the amounts collected in rates for each year and provides customers the benefit of stable rates.

There are many other items that may also be impacted by this legislation that have not been taken into consideration, including the federal tax benefit generated by state income taxes and the potential that Kansas tax credits generated by the company will expire before they are used (thus reducing both of these tax benefits to customers).

The inclusion of income taxes in setting utility rates is only one of the many components which are considered by the KCC in setting utility rates. Changes in income tax rates should not be considered in isolation, as taxes are calculated and result from the amount of income and expense incurred by a utility, taking into account all of the factors that are involved with the assessment of a tax liability for a utility (e.g., deferred income taxes, depreciation, net operating loss carryforward, normalization, etc.). Isolating income tax rate changes at the exclusion of other rate components is unreasonable. Consistency and reliability are key components of the rate-making process. This legislation seeks to overturn these longstanding regulatory principles.

Lastly, the impact of income taxes on rates is already a part of the study of utility rates required by Substitute for Senate Bill 69, which this committee recently passed. Any action on income taxes should be deferred until that study is concluded and reviewed by the legislature. The rate study legislation proposes a thorough examination of multiple aspects of utility rates, including the impact of income taxes. It allows time to review prospective changes resulting from the study to ensure there are not unintended long-term consequences for customers.

Thank you, committee, for the opportunity to provide information on the impact Senate Bill 126 would have on Evergy and its customers. We are pleased to provide additional information at any time.

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*Serving approximately 1.6 million customers in Kansas and Missouri, Kansas City Power & Light Company (KCP&L), KCP&L Greater Missouri Operations Company and Westar Energy are the electric utilities of Evergy, Inc. (NYSE: EVRG). Together we generate nearly half the power we provide to homes and businesses with emission-free sources. We support our local communities where we live and work and strive to meet the needs of customers through energy savings and innovative solutions.*