

February 13, 2023

Senate Bill 88 – KCC Elections

Oral In-Person

Proponent

**Paul Snider – Kansans for Lower Electric Rates (KLER) &
Kansas Industrial Consumers Group (KIC)**

Kansas has found itself in a challenging spot. Where once Kansas had electric rates below the regional average, for the last several years Kansas has had regionally uncompetitive electric rates. In a weird twist, Kansas has the lowest wholesale electricity costs in the country, but the highest retail rates. It's become clear the Kansas regulatory model isn't working for the benefit of Kansas residential customers and business customers. It's time to reform the Kansas Corporation Commission (KCC).

SB 88 is the product of serious thought and consideration by a number of stakeholders and we appreciate the Committee exploring this issue of great importance to Kansas.

KCC Elections

The bill would make the three Commissioners of the KCC statewide, elected positions. The plain reason for this is to make the KCC more accountable to the public and correct the imbalance in favor of utilities currently found at the KCC. This imbalance was identified by the Rate Study of London Economics, commissioned by the Legislature in 2019.

The first election for the first position would be in November 2024. The second position would be elected in 2026 and the third (and first again) would be in 2028. The elections would be partisan.

The three Commissioners would also be exempt from the Kansas Open Meetings Act to allow necessary (and currently lacking) collaboration. This provision is similar to the exemption for the Kansas Parole Board.

Importantly, the bill attempts to restrict regulated utilities from participating in KCC elections. Energy is one of the top political spenders in the state, if not the top spender.

Ten states elect commissioners, including one-third of Southwest Power Pool (SPP) states. In addition, scores of electric cooperatives, municipalities, and water systems elect the boards that set their rates.

New Utility Division at the Attorney General

The other change proposed in the bill is the creation of a new unit at the Attorney General's office to represent all consumers, working toward affordability, reliability, and regionally competitive rates.

The expectation is key utility division staff and litigation staff at the KCC would move to the Attorney General's office. This would create an important separation between the existing staff and the Commissioners.

Why Change is Needed

Over the last several years there have been several distinct instances that have shown the need to reform the KCC and make it more accountable to the public, including:

- No action on regionally competitive rates. In 2018 the Senate passed SCR 1612 which called on the KCC to take all lawful action to bring regionally competitive rates to Kansas or tell the Legislature what tools it needs.
 - In 2019, SB 69 (rate study bill) was intended *“to help craft forward-looking electric policy that leads to regionally competitive electric rates and reliable electric service.”* The KCC has never acted on either of these legislative directives.

There have been no dockets or other actions to move toward competitive rates.

Examples of Evergy rates compared to investor-owned utility (IOU) peers in surrounding states are attached at the end.

- KCC aligned with Utilities. The SB 69 report by London Economics said: *“the current IOU ratemaking practices reflect some degree of imbalance between utility incentives and public interest objectives (such as achieving regionally competitive rates or other public policy objectives)”*
 - During SB 69 negotiation sessions, KCC staff “caucused” with utilities, while ratepayer advocates met separately.
 - During SB 245/HB2702 Securitization process, the KCC worked closely with Evergy in preparing the bill, keeping ratepayers in the dark.
- Failed to act on motions for transparency and to remove confidential designations. Multiple stakeholders, including KIC, Climate & Energy Project and the Sierra Club, have filed joint motions to bring more public transparency to various utility filings. The KCC hasn't even ruled on the motions.
- No Public Hearings. The KCC has not held an in-person public hearing in three years. This includes significant “workshops” on Evergy's STP, customer hearings for rate increases, and routine meetings and hearings.
- Unwilling to act on future costs of Evergy STP. Evergy announced its Sustainability Transformation Plan (STP) in August of 2020. The Commission rightly ordered a general investigation into the STP and also Elliott Management, which had an interest in Evergy at the time. The KCC ordered Evergy to provide additional information in late 2022 regarding cost impacts of the STP. However, the KCC has issued no order in either case, although it has indicated a concern for ratepayers. Actions speak louder than words.

- \$700M gas charge. The KCC approved gas cost recovery requests from Evergy, Kansas Gas, Atmos, Black Hills, and others for February 2021's Winter Storm Uri. Customers throughout the state will pay \$700M over the next 10 years to pay back utilities for abnormally increased gas costs. Every customer and business in the state will pay the charges. The only entities that won't pay a dime are the aforementioned utilities. The KCC decided those utilities should be made whole and encounter zero risk, while customers assumed 100% of the risk and 100% of the cost.
- Opposed legislation to help ratepayers. From 2018 - 2022, Evergy Kansas Central (EKC) increased its transmission charges by about \$85M. When retail ratepayers proposed to amend Kansas law to at least have transmission rate increases delayed to a general rate case - the KCC Staff provided testimony that killed the proposed ratepayer legislation - thereby exposing ratepayers to the relentless, every-year rate increases for more and more transmission spending.
- Misleads Legislature on rate data. The Legislature is interested in data related to electric rates. In communications with legislative committees and legislators, the KCC has indicated that rates over the last five years have been mostly flat. That's mostly true but doesn't explain why. Without context, one is led to believe the KCC has worked with Evergy to bring some level of rate control. The truth is Evergy rates have benefited from hundreds of millions of dollars in savings from federal and state tax cuts since 2018. This was nothing Evergy or the KCC did. In addition, customers benefited from direct merger bill credits negotiated during the Evergy merger. It's one thing for Evergy to fail to mention these facts, it's quite another for its regulator.

Every area of Kansas and every ratepayer in Kansas has been adversely affected by the failure of the KCC to order regionally competitive rates - residential ratepayers, commercial and industrial ratepayers, schools, the faith community, and state and local units of government.

Now is the time for the Legislature to demand change. SB 88 is a logical step to reforming utility regulation in Kansas to support the ratepayers of Kansas. We strongly urge the Committee to advance SB 88.

Contact:

Paul Snider, on behalf of KLER & KIC | (913) 439-9723 | paul@sniderpa.com

The Kansas Industrial Consumers Group (KIC) is a coalition of large-volume energy users in Kansas. The members collectively represent billions of dollars of investment in the State and employ thousands of Kansans. Kansans for Lower Electric Rates (KLER) is an advocacy project of KIC with members of all sizes. We believe high energy costs are negatively impacting residential consumers, schools, hospitals, and large and small businesses.

Regional Electric Rate Comparison

2021/2022 -- Sorted by Residential

Municipal Utilities	State	Residential	Commercial	Industrial
		(¢/kWh)	(¢/kWh)	(¢/kWh)
McPherson BPU	KS	9.3	7.61	5.78
City of Russell	KS	10.17	9.42	7.25
Omaha Public Power District	NE	11.65	8.41	6.48
Kansas City BPU	KS	15.97	13.09	9.6
Independence Power & Light	MO	16.56	14.84	11.3
Investor Owned Utilities (IOU)				
OG&E Electric Services	OK	9.54	6.92	4.03
MidAmerican Energy	IA	10.62	7.23	5.45
Ameren Missouri	MO	10.69	8.43	6.47
Southwestern Electric Power	AR	10.75	8.65	6.72
Public Service Company of OK	OK	11.12	7.53	5.16
Evergy Missouri West	MO	11.53	8.55	6.24
Public Service Company of CO	CO	12.19	12.83	8.15
Evergy Kansas Central	KS	12.76	10.85	7.83
Evergy Kansas Metro	KS	12.93	10.97	8.43
Evergy Missouri Metro	MO	12.99	10.78	7.44

Notes: Updated Dec. 2022
 Municipal rates include charges for the PILOT and are calculated using current rates and the same billing determinants as IOU rates
 IOU rates are weighted averages of 4 months summer and 8 months of winter Edison Electric Institute rates and does not include any special contract rates.



