

**Testimony of Kansans for Lower Electric Rates and
Kansas Industrial Consumers Group
In Opposition of SB 245
Before the Senate Committee on Financial Institutions and Insurance
February 18, 2021**

The Kansas Industrial Consumers Group (KIC) and Kansans for Lower Electric Rates (KLER) applaud the committee for reviewing ways to help the State make its electric rates regionally competitive. Achieving regionally competitive electric rates is a critical issue because the price for electricity touches every corner of Kansas. We do not oppose securitization. In fact, we have supported prior efforts to pass securitization legislation in Kansas. However, Senate Bill 245 (SB 245) as it exists today contains insurmountable hurdles that must be addressed prior to moving forward.

Summary of KIC's & KLER's Opposition:

- The bill is unclear and does not provide clear ratepayer benefits: KIC and KLER are opposed to any securitization legislation that does not include a clear statement that the KCC may only approve a securitization application if it materially lowers electric rates and bills for Kansas ratepayers.
- The bill is not thoroughly vetted and likely does not provide the KCC enough oversight: It is not prudent to go forward without significantly more study. The language has only been available since late Friday, February 12. This is potentially transformative for the Kansas utility industry and if unnecessarily expedited or implemented, it could destroy the ability of Kansas businesses to effectively compete.
- This week has shown now is not the right time for securitization: It is not the right time to consider taking any generation plants out of service. This week, Kansas and the region were plagued by electric service interruptions. As stated by the KCC, this week's electric service interruptions are likely going to be the subject of multiple investigations. These investigations will likely include a close look at our region's generation fleet, and how retirements will affect future reliability. There is no need to rush a securitization bill with these investigations looming.

Senate Bill 245 is a One-sided Securitization Bill:

KIC and KLER have significant concerns with SB 245 in its present form. However, our main concern is the bill does not guarantee any material rate relief to retail customers. Any securitization legislation must require ratepayers receive real, material reductions in their overall cost for electricity in return for taking on decades of bond payments. Unfortunately, SB 245 takes a lopsided approach in favor of electric public utilities. We urge the committee to reject SB 245 in its current form and allow all interested stakeholders the opportunity to craft a comprehensive and equitable securitization bill.

In general, securitization is a voluntary financing tool that can help utilities transition away from underutilized assets that may be a drag on consumer rates. London Economics International (LEI) evaluated securitization in its rate study commissioned by the legislature. In short, LEI presented a favorable view of securitization. We agree – a properly implemented securitization framework can be mutually beneficial to ratepayers and to utilities. SB 245 comes up short in a number of key areas.

The core standard in SB 245 is to ensure ratepayers receive:

. . . net quantifiable benefits to customers when compared to the costs that would result from the application of the traditional method of financing and recovering the undepreciated investment of facilities or that would avoid or mitigate rate impacts to customers.

What is a “net quantifiable benefit” and how is it measured? Since this provision also refers to avoiding or mitigating rate impacts, it likely means something other than lower rates. From the very beginning, it’s unclear what “benefit” ratepayers could receive.

SB 245 uses “energy transition charges” to pay for the bonds issued by this proposed legislation. These charges are imposed on every retail customer and are deemed nonbypassable. This presents a host of concerns. First, special contract customers unsurprisingly have unique rates negotiated with utilities. These rates may not be abrogated unless the Kansas Corporation Commission (KCC) finds them detrimental to the public welfare. Requiring these customers pay energy transition charges deprives them of their freely negotiated contract rates and may be considered a taking. Likewise, wholesale customers utilize the assets likely to be securitized, but they would not be subject to energy transition charges.

Ratepayers, businesses, and even utilities face uncertainty too. For ratepayers that fall behind on their bills, what happens if they can cover their energy usage but not the “energy transition charges?” Will they be disconnected? What happens if a city annexes their neighborhood? SB 245 requires these customers continue to pay energy transition charges, but who will administer or coordinate this? If a business is seeking to relocate to Kansas, can they be certain they won’t be required to pay for generation assets they have no knowledge of and did not benefit from? Will a utility be considered a debt collector and subject to additional regulations if it attempts to service or collect past-due “energy transition charges?”

Despite these questions, SB 245 uses break-neck speed for regulatory review. While a predetermination decision is a pre-requisite to a utility filing an application under SB 245, both proceedings conclude under accelerated timelines. When it comes to determining how to securitize a generation facility’s retirement, the entire securitization proceeding starts and concludes in 135 days. The bonds issued under SB 245 could exist for 32 years, but their terms and impact on ratepayers will be decided in just over four months.

It’s questionable how much flexibility the KCC has when allocating these costs to retail ratepayers once bonds are issued or assigned. Under SB 245, a point is reached where

the KCC's financing order becomes irrevocable – including how these costs are allocated to retail ratepayers. Though infrequent, the methodology used to allocate costs to ratepayers can vary over time. SB 245 locks in the cost allocation methodology for the life of the bonds.

Finally, SB 245 gives electric public utilities total discretion how to use the proceeds from energy transition bonds. Specifically, electric public utilities retain the “sole discretion” to determine how to spend or invest proceeds from energy transition bonds. An electric public utility could literally use proceeds to buy back its stock and increase shareholder returns – all financed by nonbypassable charges placed on retail ratepayers.

We believe securitization can prove to be a beneficial tool for retiring underutilized generation assets, investing in new technologies, and saving ratepayers money. However, careful attention must be paid to ensure legislation that enables this valuable tool achieves its desired outcomes. While securitization has benefits, SB 245 does not.

We urge the committee to reject SB 245 in its current form.

Contact:

Robert Elliott Vincent, Counsel
Kansas Industrial Consumers Group
Kansans for Lower Electric Rates
(913) 661-9800
robert@smizak-law.com

The Kansas Industrial Consumers Group 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 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.