



TESTIMONY

Senate Committee on Utilities

Whitney Damron

On behalf of

The Empire District Electric Company d/b/a Liberty

www.libertyutilities.com

SB 349

An Act concerning electric public utilities; relating to the state corporation commission; providing limitations upon certain retail electric rate increases; exceptions.

February 15, 2022

Chairman Thompson and Members of the Committee:

On behalf of Liberty, I appreciate the opportunity to provide testimony to the Committee in regard to the Company's concerns with SB 349, which imposes a one percent annual limit on retail electric rate increases with certain exceptions.

Legislation such as SB 349 is very concerning because the premise behind the legislation appears to suggest there is some kind of magic bookkeeping that can be undertaken that will allow an electric utility to continue to meet its mandated obligation to provide safe and reliable electric service to all within its certificated territory with a limited ability to recover the costs for providing such service.

Public utilities, such as Liberty have their rates set by the Kansas Corporation Commission. The role of the KCC is to balance the interests of the utility with the interests of the utility's customers. Ignoring the financial interests of the utility by artificially limiting its return on investment will eventually lead to a disruption in meeting the customer's need for reliable, affordable, and safe service and will make it very difficult for the utility to access the capital necessary to run a capital-intensive business.

Specifically, arbitrarily picking a number – one percent in this instance, defies market realities. According to the Bureau of Labor Statistics, inflation for the Mountain-Plains Region (MT, WY, UT, CO, KS, and MO), measured as a Year over Year change in prices, was 7.9% in January 2022*. Earlier this week CNBC reported the annual inflation rate at 7.5%.

*https://www.bls.gov/regions/mountain-plains/news-release/consumerpriceindex_midwest.htm#tableA

Inflation will increase costs for Liberty that are not exempt from the cap, including labor, healthcare, unfunded mandates, and who knows what else. What impact this rate cap will have on Liberty's ability to attract and retain highly skilled employees who will have other options for employment are unknown, but a concern.

While certain costs and riders are excluded from the cap (e.g., ad valorem taxes, fuel charges, and energy cost adjustments), cost drivers such as transmission, labor, infrastructure, environmental mandates, non-ad valorem taxes and safety enhancements are not excepted. These costs are largely beyond the control of the utility.

The cap limits the utility's ability to invest and modernize its infrastructure, which can lead to a deterioration of reliability and safety. This arbitrary limit would also materially impact both short term and long-term business decisions that affect reliability and decarbonization initiatives, which may ultimately increase costs for our customers.

The cap will make the electric industry less resilient and less flexible when faced with unforeseen challenges or emergencies.

The cap will also increase the cost of capital for affected utilities when Wall Street and other investors see that an electric utility in Kansas will be unable to invest in reliability, safety, and customer service at the same level as public utilities in other states.

The cap will also likely increase the number of rate cases at the KCC as electric utilities modify current practice and transition to a process of "mini rate cases" perhaps as much as on an annual basis.

Finally, we acknowledge in the bill that any costs not recovered due to the rate cap contained in this legislation can be tolled by the electric utility for ten years and recovery sought through a KCC filing. This decade-delayed rate bomb for the next generation of customers makes no sense at all from a utility ratemaking perspective, whereby those receiving the benefit of electric service pay for the benefit of electric service.

The advocates for this bill were among the leading advocates for two comprehensive electric rate studies completed in the past two years that were ultimately paid for by the ratepayers. While voluminous and exhaustive, I do not recall anywhere in either study there was a recommendation to impose "rate caps" as a way to moderate increasing electric rates.

SB 349 is nothing more than a clickbait headline for the public. A grandiose idea thrown out to the public devoid of logic and unable to withstand regulatory scrutiny yet one that provides the proponents the supposed moral high ground that they are simply trying to hold down electric rates. This legislation should stay where it is – in committee.

On behalf of Liberty, I would be pleased to stand for questions at the appropriate time.

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Information about Liberty:

Liberty is a subsidiary of Algonquin Power & Utilities Corp., which is a diversified international generation, transmission, and distribution utility with over \$16 billion of total assets.

Liberty's Central Region is headquartered in Joplin, Missouri and serves customers in six states (AR, IL, IO, KS, MO and OK) with nearly 10,000 electric customer connections in Kansas, located in the southeast corner of the State.

Liberty provides electric utility and natural gas services, water, and wastewater to over one million customer connections primarily in the U.S. Liberty's utility operations are primarily located in the United States and Canada and have expanded to Chile and Bermuda.

Liberty has nearly \$500 million in capital assets located in Kansas and pays nearly \$3.5 million in property taxes annually. Liberty owns and operates the 275-megawatt natural gas combined cycle Riverton power plant located in Riverton, Kansas in Cherokee County. In addition, Liberty owns the 139 turbine, 300-megawatt wind farm named Neosho Ridge Wind Farm in Neosho County. Liberty also has purchase power agreements from 150-megawatt Elk River Wind Farm located in Butler County and the 105-megawatt Meridian Way Wind Farm located in Cloud County.