



House Committee on Energy Utilities and Communications

February 6, 2024

HB 2527

In-Person, Opponent

Dear Chairman Delperdang and Members of the Committee:

Thank you for the opportunity to testify today in opposition to HB 2527. My name is Elizabeth Patton and on behalf of thousands of activists in Kansas, I have grave concerns about this legislation and the impact it will have on our energy market and on ratepayers.

HB 2527 is not aligned with Americans for Prosperity's goals of more energy at lower costs and a smarter business and regulatory environment. The language in this bill appears to allow a private company to choose who gets to qualify for economic development rates; thus, once again picking winners and losers. Incentives built the disincentive competition and an even playing field have plagued our state for years and this is not the way to grow our economy effectively. This bill also unfairly favors the current state-sanctioned monopoly in a way that flies in the face of competition and removes accountability mechanisms from the regulatory body for ratemaking and cost recovery. This legislation also provides an existing utility that acquires a stake in a new gas-fired generating facility the ability to implement a new rate adjustment mechanism designed to recover the return on 100% of the amounts recorded to construction work in progress which would include a 9.5% rate of return, all on the backs of ratepayers.

The following sections are problematic for a variety of reasons:

1. The provision on page 4, Line 34 concerning the availability of economic development rates would INCREASE the threshold from 300 kilowatts to 25,000 kilowatts (which is 25 megawatts translated into kilowatts) as one factor in being able to qualify for economic development rates. This language would again likely allow an existing private company to choose and perhaps make it *more difficult* for other businesses to qualify for those rates. It is unclear why the wattage language was changed from kilowatts to megawatts – i.e., why the “25 megawatts” was not written in terms of kilowatts. We have concerns that this is due to an attempt to confuse or mislead.
2. The text on page 8 beginning at Line 32 and continuing through to page 9 Line 20: (5) With respect to a new gas-fired generating facility, unless the commission timely elects not to set forth ratemaking principles applicable in the future on the grounds that acquiring a stake in such a generating facility is not reasonable, then notwithstanding any other provision of law, the public utility shall be permitted to implement a new rate adjustment mechanism designed to recover the return on 100% of amounts recorded to construction work in progress on the public utility's books for the public utility's stake in such a generating facility at the weighted average

cost of capital without offset, adjustment or reduction for any other issue or consideration, except that such return shall be in lieu of any otherwise applicable allowance for funds used during construction that would have accrued from and after the effective date of such rate adjustment mechanism.

3. The “weighted average cost of capital” as outlined on page 1 Lines 28-35 and Page 2 Line 1 includes a cost of common equity of 9.5%. Unless the commission elects to not do certain ratemaking with respect to the acquisition of a stake in a gas-fired generating facility, then this language authorizes the public utility to implement a new rate adjustment mechanism designed to recover 100% of the amounts recorded to construction work in progress, which includes the ability to charge an additional 9.5% return on the amounts recorded to construction work in progress.

When considering the goal of more competition, more options for consumers and a more robust energy marketplace for consumers to help drive down the costs, this bill takes us in the opposite direction. We ask this committee to reject this legislation and instead pursue options to reform the law to help drive down costs to ratepayers.

Sincerely,

Elizabeth Patton

State Director

Americans for Prosperity- Kansas