



Thursday, February 9, 2023

Senate Committee on Utilities

SB 68- ROFR

Oral In-Person

Opponent

**Presented by Eric Stafford, Vice President of Government Affairs,
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Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We appreciate the opportunity to testify in opposition to Senate Bill 68.

The Kansas Chamber's mission is:

Continually strive to improve the economic climate for the benefit of every business and citizen and to safeguard our system of free, competitive enterprise.

The Federal Energy Regulatory Commission adopted Order 1000 in 2011 and re-affirmed it in 2012. One component of the order was removal of the federal Right of First Refusal (ROFR). Power Magazine in July 2012 when the order was first issued stated, "allowing non-incumbent entities to propose alternative lines will be a big plus for consumers, as exploring more options makes the most cost-effective solution more likely to be implemented."

Kansas Chamber ratepayer members have increasingly become more concerned about rising energy costs in our state over the last seven years. It is now to the point we are seeking numerous reforms to improve our state's competitive position related to electricity rates. We have been supportive of many major policy efforts benefitting our state's investor-owned utility, including the elimination of income taxes on utilities, economic development programs, and securitization. We fought for a compromise on Senate Bill 69 for the state to commission an energy study and watched as KCC staff representatives – the regulatory body that implements policies established by the legislature – argue policy positions *on behalf of utilities*.

Just recently, an investor-owned utility called its customers a "cabal of businesses" in a Kansas news publication because its ratepayers support policies that will produce more competitive electric rates. We have a hard time trusting that investor-owned utilities are truly looking out in the best interests of ratepayers. And neither is the Kansas Corporation Commission.

That trust is further eroded as we stand here today, debating the policy before you in Senate Bill 68 – a bill that eliminates any sliver of competition on transmission development in the state. Competition results in innovation, advancements in technology and most importantly, cost savings for Kansans, who are experiencing the highest energy costs in the region.

Significant investments in transmission are a main driver behind Kansas' regionally high electric rates. Imagine for a moment the interconnected system of state highways that gets travelers from point A to point B in a reliable, efficient manner was offering the right of first refusal to highway contractors who pave our state's highways in 20 mile segments? No, we have a competitive bidding process for highways, state buildings, schools, and regents institutions that follow strict processes established by the legislature. And some of those processes do not only look at the lowest price. They follow a competitive bidding process where selections can be made on the overall benefit to the owner (the state) and the taxpayer. Price can be THE factor, or just A factor, depending on the bidding requirements.

The Kansas Chamber commissioned former FERC Chairman Neal Chatterjee to conduct an energy study in 2022 on behalf of our ratepayers who continue to express concerns over high energy rates. Chatterjee writes, "As noted, transmission costs are one of the primary drivers of increased rates in Kansas."

Just last week, this committee heard testimony from KCC representative Justin Grady, that there are currently no pending SPP transmission projects and the KCC does not plan transmission. We have seen Energy's Annual Transmission Delivery Charge increase from \$72 million in 2008, to over \$300 million in 2022. Adopting the elimination of competitive bidding as state policy compounds the already high transmission charges being passed to consumers by preventing any competition that could result in cost savings and efficiencies in transmission development across our state.

We would argue instead of eliminating competition through ROFR policies, the legislature should seriously consider strengthening KCC oversight into the state's transmission development plans to ensure ratepayers are protected, and research the possibility of expanding competition, where possible, throughout our energy sector. It worked for the telecommunications industry. Surely we can find a way to make it work here.

In closing, we believe the policies set forth in Senate Bill 68 are anti-consumer and will result in higher electricity costs for Kansas residents and businesses.