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Senate Utilities Committee
Testimony of Tom Stevens, Director - Regulatory
SB 69 - Oppose
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Thank you Chairman Masterson and members of the committee for the opportunity to provide comments today on SB 69 which commissions a study on electric rates and has other ratemaking provisions. On behalf of Black Hills Energy, a natural gas utility proudly serving approximately 113,000 customers in 65 Kansas communities, we are here today to testify in opposition to this legislation.

Commitment to Safety

At Black Hills Energy we've set a goal to be the safest energy company in the country. This encompasses the safety of our customers, employees and all people in Kansas. Safety is the first consideration as we prepare capital budgets and prioritize replacement of aged and obsolete assets. Our commitment to safety is the cornerstone of who we are and what we do.

Accordingly, Black Hills supports a regulatory structure that enables our utility to provide safe and reliable service to our customers and the communities we serve. This is the paradigm we view any legislative proposal through and the basis of our evaluation of SB 69.

Natural Gas is a Strong Value for Our Customers

Domestically produced, abundant natural gas remains a strong value for our customers' energy needs. In 2018, the typical residential customer on our system paid an average monthly bill of \$53.75 – meaning they can heat their homes, have hot water, and cook meals for less than \$2 a day.

The lower cost of gas, combined with prudent management of our utility, has allowed our customers to pay approximately 20 - 25% less today than they did in 2005 (the baseline year for the electric rate study in the legislation.) Further, Black Hills has only filed two general rate cases to increase its base rates in that timeframe (2007 & 2014).

Legal Concerns and Ratemaking Implications Impacting Natural Gas Utilities

The provisions in Section 2 regarding the determination of just and reasonable rates provide the most concerning language in the bill. In particular, we have significant concerns about the reliance on neighboring states' utility rates in determining what are just and reasonable rates in Kansas. While it can be informative in looking at the rates of utilities in neighboring states, it should be noted that each utility is a unique business with unique service territories and a unique set of factors impacting their costs of providing utility service. Peer comparisons are a data point for comparison sake but shouldn't be used as a basis for setting rates that will permit the utility to recover its prudently incurred costs and have an opportunity to earn a fair and reasonable return on the capital investment it employs for the convenience of the public.

The concept of just and reasonable rates is built upon decades of judicial action and court decisions pertaining to the regulated utility industry. From the utility's perspective, the concept of just and reasonable rates has two main components: the recovery of costs that are prudently incurred in the provision of utility service, and the opportunity to earn a reasonable return on capital investments deployed for utility service.

Regulated utilities are entitled to a reasonable opportunity to recover their prudently-incurred costs. This principle was established in the landmark U.S. Supreme Court case, *Federal Power Commission et al v. Hope Natural Gas Co.* ("Hope"), 320 U.S. 591, 603 (1944). Regulated utilities are also entitled to earn a fair and reasonable rate of return on their capital investments. This principle was established in another landmark U.S. Supreme Court case, *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia* ("Bluefield"), 262 U.S. 679 (1923). Collectively, these two components, the recovery of prudently incurred costs and the opportunity to earn a reasonable return on investment, are commonly referred to as cost-of-service ratemaking.

Black Hills Energy is expending considerable capital on replacing aging and obsolete pipelines in Kansas to ensure continued safe and reliable natural gas utility service for our customers. While it is important to consider the impact on customers' bills in determining the pace of investment, the determination of just and reasonable rates should be based on cost-of-service ratemaking principles and the specifics of the needed utility investments in Kansas. Whether the resulting rate is lower or higher than neighboring states should not be determinative of the just and reasonable rate for natural gas utilities in Kansas.

Further, the economic impact study provisions of Section 2 requiring findings of fact regarding the impact of rates on the Kansas economy have implications as well. Each party in the ratemaking process will have various insights and perspectives on economic impacts, each with varying opinions on the actual outcomes. The rate-setting process in Kansas is confined to 180 days per state statute and this exercise will undoubtedly take time and additional costs, including but not limited to economic experts and additional studies, which detract from the overall mission of the process for the commission and the parties involved to determine just and reasonable rates.

Black Hills Energy also has concerns about the provisions in Section 3 requiring an explanation for approved rate changes that exceed the consumer price index ("CPI"). The CPI is a measure of the average change over time for a market basket of consumer goods and services. This means that some goods and services within that basket increased at a rate higher than the CPI, while other goods and services increased at a rate lower than the CPI. As such, the CPI is not intended as a measure for how much the price of any particular goods and services should change and it should not be used as a standard for requiring special explanation of approved rate changes.

BHE Summary

While the provisions of the rates study are directed toward electric utilities, the regulatory constructs being deliberated could have an impact on natural gas utilities as well. Those constructs, which allow us to operate a safe and reliable natural gas system, and adhere to the regulatory principles of balancing the needs of the utility with the interests of the customer, should be at the forefront of considerations.

In conclusion, we have many concerns about Senate Bill 69. The legislation has legal concerns, could have vast impacts on ratemaking, and contains costly and time-consuming reports that yield little in customer benefit.