



**Midwest
Energy, Inc.**

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**Testimony Submitted by Earnie Lehman
To the House Energy and Utilities Committee
In Support of HB 2489**

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Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today. I am Earnie Lehman, President and General Manager of Midwest Energy, Inc., a customer-owned gas and electric utility serving 91,000 customers in 41 counties of central and western Kansas. Today my remarks are focused on our 42,000 natural gas customers. Midwest Energy is the only regulated utility affected by HB 2489 and supports its passage.

Our cooperative is unusual among Kansas utilities in being the only combination gas and electric service provider other than a few small municipal systems. By providing both services we achieve economies of scale and efficiencies in service that provide greater value and lower costs to our customer-owners. We operate as one company without internal divisions (other than separate cost allocations) between the gas and electric components of our business. Our customer-elected Board of Directors includes electric only, gas only and combination gas and electric customers. Midwest Energy is also unusual in that we are not a member of a generation and transmission cooperative such as

Sunflower or KEPCo and independently generate and purchase power supplies.

The buck stops with our management and board with respect to all aspects of gas and electric service.

For more than 30 years all but the largest Kansas electric cooperatives have had the opportunity to remove themselves from KCC regulation and establish full member control. Since 2009 all Kansas electric cooperatives, including Midwest Energy have had this opportunity. Given the integrated nature of our business the opportunity means little to us. No efficiencies would be gained with a half-regulated business, or regulated service to the gas meter out front and member-controlled service to the electric meter in back of the house. HB 2489 is in essence the electric cooperative deregulation statute expanded to apply to gas cooperatives.

Midwest Energy deeply respects the expertise and role of the Kansas Corporation Commission and the Consumer Utilities Ratepayers Board. We support this statute on its own merits and not as an attempt to evade oversight by a prejudicial authority. Within a cooperative there are not conflicting interests between ratepayers and investors. All of the equity within a cooperative is provided by customers. All profits (which we term “margins”) are plowed back into the business and ultimately returned to customers through a capital rotation cycle. This blunts the impact of actions the KCC might take with respect to reducing rates. Denying a cooperative the recovery of certain costs through rates

simply has the effect of charging such costs against past margins provided by customers or deferring such costs for recovery from customers at a later time.

The protection provided by regulation also comes at a cost. Without considering rate cases, KCC and CURB assessments and related legal costs paid by Midwest Energy's customer-owners run about \$300,000 a year. And even though we can conduct rate cases much more cheaply and hopefully less often than the bigger utilities, it still costs us at least \$150,000 to \$200,000 in out-of-pocket costs to process a rate application. I have not calculated the internal costs of regulation to Midwest Energy other than to estimate we have about two full-time equivalent employees supporting such efforts.

This leads to an inescapable corollary. Regulation adds time and decreases our responsiveness to customer needs as it balances competing interests. To cite a rather extreme example, in 2006 the KCC opened a docket to reexamine utility security deposit practices. Late in 2011, after more than five years of proposals and counter proposals, revised guidelines were issued. In the area of energy efficiency, where Midwest Energy has a strong emphasis and a great track record, multiple rulemakings have been undertaken since 2007, the last of which is not yet concluded.

The Governor has established the Office of the Repealer because he believes state laws and regulations shouldn't hinder opportunities for Kansans and Kansas businesses. The regulation of customer owned gas utilities is a case in point. Clearly customers won't always feel they are getting a fair shake from their cooperative, no matter how open and transparent the rate-setting process is. That is why Midwest Energy endorses the regulatory backstop provisions in the current electric and proposed gas deregulation legislation. There can be no tyranny of the majority against a minority that feels its rates are too high. Under HB 2489 and its electric cooperative counterpart it will be easy for a small number of customers to trigger a full KCC review.

That's the whole story. There is no beneficiary from HB 2489 other than our own customers. There is no potential harm to those customers that cannot be easily remedied. Please pass HB 2489 and allow our customers an opportunity to determine their own future.

Thank you.