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RESPONSE OF THE CITIZENS' UTILITY RATEPAYER BOARD TO STUDY OF RETAIL RATES OF KANSAS ELECTRIC PUBLIC UTILITIES

Presented to House Energy, Utilities and Telecommunications Committee
February 20, 2020

INTRODUCTION. On behalf of the Kansas residential and small commercial ratepayers that the Citizens' Utility Ratepayer Board (CURB) represents, CURB thanks the House Energy, Utility and Telecommunications Committee for the opportunity to respond to the Study of Retail Rates of Kansas Electric Public Utilities prepared for the Kansas Legislative Coordinating Council (LCC) by London Economics International, LLC (LEI), and presented on January 8, 2020 (Study). Although CURB has not yet taken the time to dissect the Study in detail, CURB is impressed with the depth and breadth of the Study. Moreover, the Study presents a myriad of general concepts and broad suggestions. CURB's response is general only and is not inclusive of all CURB's concerns. Further, CURB notes that there are a number of utility concepts and issues that will be discussed in Part II of the study proposed by the LCC, and the concepts and proposals in this Study could be affected by, or may affect those concepts and proposals made in Part II. Therefore, this response is preliminary and subject to change upon the application of utility concepts to specific utilities and circumstances.

At the outset, CURB notes that the Study acknowledges that there is no easy fix to reducing electricity rates in Kansas. This fact should surprise no one. Moreover, the Study is forward-looking, taking conditions as they are in Kansas presently and offering various means (tools) that may help to better these conditions to some degree. CURB believes that the Study was a worthwhile endeavor and may prove valuable by initiating discussions of energy policy in Kansas. To this end, CURB believes that the formation of sound energy policy provides the very basis upon which the tools that LEI suggests could effectively be deployed.

CURB wholeheartedly agrees with key points made by LEI that Kansas needs an energy plan and regulated utilities should be required to submit integrated resource plans (IRPs) at regular intervals. CURB greets with more caution the key points made by LEI that the Kansas legislature should consider the exploration of performance-based regulation and the retirement and securitization of uneconomic assets. CURB is certainly not opposed to either of the latter concepts, but suggests there are several issues that legislators, regulators and other stakeholders must consider in order to adequately protect the interests of residential and small commercial ratepayers.

Therefore, CURB's response will begin by addressing LEI's suggestions of an energy plan and IRPs. Beyond those topics, CURB will address energy efficiency, economic development tariffs, retail choice, renewable energy, as well as securitization of uneconomic assets and performance-based regulation. In addressing each of these concepts, CURB will highlight what the Study suggested and how those suggestions may affect residential and small commercial

ratepayers. CURB will then outline its concerns relative to providing adequate protection of the interests of these ratepayers. Again, CURB emphasizes that its response is preliminary and at a very high level due to the lack of time to examine the concepts suggested in detail. CURB reserves the right to alter this analysis upon further review and/or the application of particular circumstances.

ENERGY PLAN. At Section 6.1.1 of the Study, LEI states that an energy plan is a key recommendation for Kansas. It notes that, at present, Kansas does not have an energy plan. It suggests that a good energy plan should have four characteristics: it must be comprehensive, adaptable, guiding and strategic. Along these lines, LEI suggests that an energy plan would outline Kansas' policy priorities and thereby provide high-level guidance for utility investments. LEI further suggests that a good energy plan offers a clear and vetted plan of action.

It is CURB's view that this is the most salient recommendation made by LEI in the Study. Many states have energy plans, and Kansas had one until 2008. Importantly, key decision-makers did not perceive the Kansas energy plan as integral to planned energy investments and achieving Kansas policy priorities; it was consequently abandoned. CURB applauds Governor Kelly and other Kansas leaders who have championed the concept of an energy plan.

In CURB's view, a well-constructed, strategic energy plan (SEP) would benefit all ratepayers, including residential and small commercial ratepayers. According to the National Association of State Energy Offices (NASEO), a comprehensive strategic energy plan serves public and private sectors in several ways:

- As a resource for policymakers (governors, legislators, agencies), the plan can aid in evaluating and justifying budget appropriation decisions and help prioritize policy directives and funding opportunities.
- As a guide to state utility regulators, it can clarify executive and legislative energy policy directives. Because most regulators are appointed and provide statutory direction, the plan can offer an additional basis for priority regulatory actions and utility planning.
- As a factor for the private sector in considering how policy will impact energy markets, the plan may indicate how public funds may be invested and subsequent policies and regulatory decisions will evolve.
- As an educational document for consumers and businesses, the plan can send a clear message that the state is cognizant of the importance of reliable, sustainable and affordable energy.
- As a legacy framework for future policy and regulation, the state energy plan is a roadmap that provides recommendations and action items that establish shared priorities, opens market opportunities and sets near- and long-term measurable goals.

The Missouri Energy Initiative found that states with SEPs saw their economies grow and energy prices decrease, while states without SEPs saw their energy prices increase and fared worse in the 2008 economy. Clearly, residential and commercial ratepayers benefit from energy price decreases.

CURB's concerns with an SEP are not with the concept, but believes that an SEP that is not planned or administered effectively would not help to lower energy prices in Kansas. In short, unless an SEP is done well, it can be a waste of resources. Thus, CURB believes that there are a number of important aspects and steps involved in an SEP. CURB will outline a few.

CURB believes that an SEP should start with goals encompassing state policy priorities. In many states, SEPs list low-priced energy as a primary goal. An example of an SEP along these lines is the Idaho Energy Plan. It lists the following objectives:

1. Ensure a secure, reliable and stable energy system for the citizens and businesses of Idaho.
2. Maintain Idaho's low-cost energy supply and ensure access to affordable energy for all Idahoans.
3. Protect Idaho's public health, safety and natural environment and conserve Idaho's natural resources.
4. Promote sustainable economic growth, job creation and rural economic development.
5. Provide the means for Idaho's energy Policies and Actions to adapt to changing circumstances.

Undoubtedly, the Kansas SEP must identify appropriate policy priorities and objectives. CURB suggests that goals for an SEP should include securing the lowest-cost, most reliable and stable energy for the citizens and businesses of Kansas. It is imperative that deference be given to the state energy office (and regulators) to meet those goals, as part of the adaptability of the SEP.

Moreover, CURB believes that, to be effective, an SEP must be well structured and administered fairly and appropriately. In these regards, CURB warns that an SEP can become politicized. If so, it is readily foreseeable that policy priorities will change depending upon political power and perspectives. In short, the SEP must be structured to remain independent.

Thus, CURB agrees with LEI that an SEP must be comprehensive, adaptable, guiding and strategic. It would unduly lengthen this response to outline steps toward appropriate administration of an SEP. However, CURB wishes to suggest some steps towards appropriate formulation of an SEP. In these regards, NASEO recommends the following ten steps to develop an SEP:

Step 1: Establish a Requirement and Scope for a State Energy Plan.

Step 2: Convene the Planning Team.

Step 3: Collect and Analyze Data and Project Future Energy Needs.

Step 4: Develop the Vision for the State Energy Plan.

Step 5: Garner Public Input and Feedback.

Step 6: Outline Goals and Recommended Actions to Meet the Vision.

Step 7: Draft the State Energy Plan.

Step 8: Finalize and Adopt the Plan.

Step 9: Conduct Outreach and Marketing.

Step 10: Monitor Progress and Update the Plan.

As to the planning team, an SEP must engage key stakeholders in the development process, such as the Kansas Corporation Commission (KCC or Commission), CURB, other key governmental decision-makers (such as the Kansas legislature), utilities, industrial customers, environmental advocates and others. To exclude any of these groups would likely leave aspects of life in Kansas unrepresented. CURB believes that it should be involved as a member of the planning team, as CURB represents key stakeholders in the utility arena.

Indeed, NASEO suggests the following stakeholders in the SEP formation process:

Public Entities	Private Entities
Governor's office	Utility representatives
Key energy legislator(s)	Major industry groups
State Energy Office (SEO)	Business leaders
Public Utility Commission (PUC)	Financial institutions
Consumer advocates	Private academic/research institutions
Related state agency directors	Energy-focused non-profit organizations
Local government and tribal leaders	Environmental justice community
Military installation representatives	Others: civic groups, faith-based groups, community groups
Environmental agencies	
Research entities	

CURB looks forward to the adoption of an SEP in Kansas. An SEP should serve as the comprehensive foundation for the implementation of other energy-savings tools, such as energy efficiency, securitization and retiring assets and integrated resource plans. CURB strongly suggests that residential and small commercial ratepayers should have a voice in establishing and implementing an SEP in Kansas.

INTEGRATED RESOURCE PLAN (IRP). At Section 6.1.2 of the Study, LEI posits a second key recommendation towards possibly lowering energy prices in Kansas, the use of an IRP. LEI notes that 33 states utilized IRPs to manage energy resources, as of 2015. LEI notes that Kansas utilities are required to file annual generation capacity needs, system peak capacity needs and renewable generation needs under KCC Docket No. 13-GIME-256-CPL. However, LEI suggests that the filings required under this KCC directive are quite different from an IRP.

LEI defines an IRP as "a long-term strategy plan used to guide resource acquisition." It combines "technical analysis and public participation to ensure low cost reliable electric supply." Importantly, LEI advances that the objective of an IRP "is to find the lowest cost solution that supplies customers the amount and quality of electric service desired while at the same time supporting the utility's long-term financial health." The Regulatory Assistance Project (RAP) notes that an IRP differs from traditional planning because an IRP requires utilities to use analytical tools that are capable of fairly evaluating and comparing the costs and benefits of both demand-side and supply-side resources.

LEI suggests that to implement an IRP in Kansas, a number of questions should be answered:

- Will the IRP will be undertaken on a statewide basis or by individual local serving utilities (LSEs)/utilities?
- Who will perform the modeling, studies and analyses to determine resource needs?
- How the authorization (and procurement process) will be structured?
- How to measure LSE/utility compliance with IRP requirements, and on what timeframe?
- Whether an enforcement regime is necessary, and if so, how to structure it?
- What should be the required content of the IRPs?
- What will be the frequency and timing for IRP updates?

Regarding the first question, LEI outlines a number of differences between a statewide IRP requirement and the reporting requirements set forth in KCC Docket No. 13-GIME-256-CPL.

It is important to note that the KCC has adopted an IRP for Evergy in Docket No. 18-KCPE-095-MER (the Westar Energy, Inc./Great Plains Energy, Inc. merger). In these regards, this IRP governs resource planning for the east geographic 1/3rd of the state (with the exception of one county served by Empire District Electric Power). An IRP was of great importance to the KCC at the time of the merger, as evidenced by the number of questions asked by various Commissioners during the merger proceeding and the requirement of an IRP as a condition of approval of the merger. This development does not appear to be given much weight in the Study.

CURB believes that an IRP process in Kansas can be of substantial benefit to residential and commercial ratepayers. RAP states that an IRP, if correctly implemented, locates the lowest practical cost at which a utility can deliver reliable energy services to its customers. As noted by LEI, an IRP is used to find the lowest cost, reliable and safe energy source(s). In these regards, an IRP can be used to help fulfill the statutory mandate that utilities provide adequate and sufficient service to its customers at the lowest practical cost.

On the other hand, CURB is concerned that structuring and implementing an IRP adds costs to the regulatory process, and that these costs will be borne by ratepayers. Therefore, it is extremely important that any IRP be cost-effective. Moreover, CURB believes that an IRP should be included in the Kansas SEP. Clearly, an IRP should be consistent with Kansas energy policy priorities.

It is also important to note that merely having an IRP is not a simple and easy answer to low-cost, reliable energy. A long-range IRP assumes an ability to forecast future events that could affect energy prices. Accurate forecasting is extremely difficult and can miss the mark. Thus, CURB believes that an IRP must be adaptable, perhaps having long-term and shorter-term views.

Furthermore, CURB reiterates that the Commission has already implemented an IRP with respect to Evergy. That IRP was formulated in 2019 after negotiations occurred between Evergy and the Commission staff with the opportunity for input by other stakeholders. This IRP has not been tested yet. Thus, Kansas decision-makers have not been able to verify how well this IRP will work to meet the objective of providing the lowest cost, reliable and safe energy source(s) to Kansans. While LEI suggests a number of questions should be answered relative to an IRP (as outlined above), CURB suggests that the Commission has already evaluated those questions in terms of the IRP it has established. Therefore, the KCC should provide answers to those questions to the satisfaction of the Kansas legislature and other Kansas decision-makers. CURB believes that for an IRP to be effective, there must be an enforcement regime.

Moreover, CURB finds that several recommendations made by RAP for prudent IRPs should be considered. One of those is that an IRP process should begin with determination of IRP guidelines and rules. In this respect, integration of the IRP into the Kansas SEP will help structure those guidelines and rules. Secondly, RAP advances that stakeholder involvement is extremely important. For example, Arkansas uses a stakeholder committee to assist in preparing resource plans. However, CURB believes that the KCC is the proper regulator to approve and enforce an IRP. RAP also suggests that an IRP should include load forecasts, consider reserves and reliability, evaluate cost-effective demand-side resources among other supply options, utilize reasonable and recent fuel prices in energy forecasts, and contemplate environmental costs and existing resources in the planning process, among other matters. CURB commends these suggestions as part of ensuring that Kansas has an appropriate IRP process.

PERFORMANCE-BASED REGULATION. LEI discusses Performance Based Regulation (PBR) at Section 6.2 of the Study. As pointed out by LEI, PBR is a type of utility regulation that aims to break the ties between rates and increasing capital expenditure by the utility. The focus of this type of regulation is to set rates and revenue according to a utility's performance levels against pre-determined targets. The goal is to incentivize the utility to adopt efficient and cost-reducing behaviors that are in line with ratepayers' interests, with the ultimate result being lower electricity rates. Unlike Cost of Service (COS) regulation, which requires regulators to review past activity to determine prospective rates, PBR utilizes detailed forecasts and predictions of a utility's future costs and expenditures to set performance targets and appropriate rewards and penalties. Currently, Kansas does not utilize any type of PBR mechanism to establish rates.

In Section 6.2 of the Study, LEI provides an overview of the different kinds of PBR mechanisms that have been implemented around the world. PBR is viewed as a continuum of regulation and the degree of implementation is determined by regulators' and stakeholders' demands and comfort levels with incentivizing the utility. PBR mechanisms can also be used in a way to compliment traditional COS ratemaking.

In the "light" form of PBR, rates are still cost-based, but regulators establish upward and downward adjustments to reward or penalize utilities relative to meeting certain parameters. The LEI rate study highlights two mechanisms: Performance Incentive Mechanisms (PIMs) and Earnings Sharing Mechanisms (ESMs). These two mechanisms are described in the Study.

With PIMs, LEI states that regulators and stakeholders create quantifiable performance standards and targets for various metrics, such as reliability, cost control and service quality. These targets are crafted with a larger strategic goal in mind. LEI emphasizes that these standards must be "achievable, realistic, and measureable." Likewise, rewards and penalties associated with these performance standards must incentivize the new behavior and reasonably balance the utility's financial viability in meeting the standards along with the ratepayers' willingness to pay for the behavior.

LEI states that ESMs are designed to share extraordinary earnings and losses between the utility and ratepayers. In traditional ratemaking, both earnings and losses are attributed to the utility after rates are set. ESMs establish zones of sharing based on an authorized Return on Equity (ROE). Regulators create a "deadband" around the ROE percentage in which earnings or losses above or below the ROE are solely held by the utility. Any earnings above that deadband percentage are returned to the ratepayer through means such as refunds or reduced rates. Losses below the ROE deadband are recovered from the ratepayer. The sharing itself can be split evenly between shareholders and ratepayers or asymmetrically to favor one group or the other. Ratepayers may enjoy additional savings or incur higher rates with this mechanism than they would in the current ratemaking environment.

The "medium" level of PBR involves the use of formulas and benchmarking to set the utility's rates and revenue levels. Regulators moderate pricing by capping rates for the duration of the regulatory period. These rate caps require the utility to perform annual productivity improvements and are reflected through an indexing formula. The formula is applied to an initial price set by regulators, taking into account inflation and the year's productivity levels.

LEI highlights the possibility of Kansas to adopt a total factor productivity (TFP) based "I-X" approach. Under this approach, a forecast of total costs is prepared for each year of the regulatory period. Costs included may be operating expenses, return on investments, depreciation expenses and taxes. The utility also looks at any necessary capital investments and productivity improvements in this forecast. All of these costs make up an allowed revenue requirement. This establishes the starting price for the utility to which annual adjustments are applied based on inflation (I) and productivity targets and real price changes needed to support the revenue requirement (X). The Study states that this type of rate cap and other PBR mechanisms reduce regulatory burden because utilities would not be required to file frequent rate changes, and thus reduce costs associated with regulatory action.

LEI emphasizes the importance of stakeholder input when crafting PBR mechanisms. Equally important is the quality of data that is used to develop this input. CURB agrees with LEI that stakeholder involvement at all levels from different groups is a cornerstone of ratemaking, no matter the system in place. LEI notes that the possibility of unavailable or inconsistent data can prevent the effective use of PBR mechanisms and result in additional costs and problems for ratepayers. Currently, rate cases and other dockets are primarily introduced by the utilities themselves. PBR, by its nature, is a speculative process that relies on historic data and predictions by all parties to set rates. If Kansas were to adopt any level of PBR, it is imperative that all stakeholders have a seat at the negotiating table and fair access to information that is being considered. Other stakeholders must increase their involvement with the ratemaking process under

a PBR framework to ensure that metrics are being met and that the failure to meet these standards results in swift correction and review.

CURB notes that PBR is not a uniform system that can be applied to every situation. The Study points out numerous vertically integrated utilities around North America as a comparison to Kansas' own utilities. CURB is cautious in providing support for PBR in Kansas due to the various environments each sample represents. For example, Kansas is in the unique position of having excess electric capacity and a number of generating plants that conflict with goals of efficiency and reducing carbon emissions. Certain performance metrics that other jurisdictions focus on may not have the same impacts in Kansas. Another concern CURB has for PBR is the sheer number of contingencies that come with designing PBR mechanisms. Incentives that aim to promote regionally competitive rates may run against utilities' concerns about substantial productivity and expenditure requirements. CURB is concerned that the use of incentives to promote certain metrics will lead the utility to "study to the test" and neglect other metrics like reliability. CURB supports the notion that incentives should be based on maintaining and improving customer service and reliability along with cost-reducing behavior. Thorough implementation of adjustment and review mechanisms should be a staple of a PBR process in Kansas to intercept disproportionate costs or rate changes to maintain a path to lower electric rates.

Moreover, the application of PBR in Kansas would likely result in substantially changing parts of the Kansas Public Utility Act, which Kansas regulators have used since 1911. These changes could lead to regulatory uncertainty. In CURB's view, this does not mean that PBR should not be examined or applied, but it does mean that PBR should be considered only after careful study, involvement of multiple stakeholders (including CURB), and evaluation of the costs and benefits of PBR. To reiterate, adopting a PBR in Kansas should be a very slow and deliberate process involving multiple stakeholders. Moreover, CURB ardently believes that PBR metrics must coincide with policy priorities of the Kansas Energy Plan.

ECONOMIC DEVELOPMENT TARIFFS. Economic development initiatives from a utility provide incentives to large industrial and/or commercial customers to maintain existing facilities or locate new facilities within the utility's service territory. These initiatives are typically implemented through economic development rates/riders (EDRs). Such EDRs are already in place in Kansas: both Evergy Central and Empire offer economic development rates. However, there is a push from some stakeholders to expand EDR program offerings in Kansas.

Section 6.3 of the Study addresses whether economic development issues should be considered to reduce retail electric rates. CURB supports LEI's findings regarding the benefits and drawbacks of EDRs. The enumerated benefits are job creation and private capital investment, lower rates and improved utility revenues. The drawbacks are free-ridership issues and the fact that EDRs are only targeted to large, energy-intensive customers. However, CURB would stress that these are simply *potential* benefits/drawbacks, and EDR eligibility should be evaluated on a case-by-case basis. Furthermore, CURB questions whether the consideration and evaluation of economic benefits, such as increased local retail spending, should fall within the purview of the Kansas Corporation Commission and affect the utility ratemaking process.

CURB agrees with LEI that, "EDRs need to be carefully designed to avoid cross-subsidies within and between customer classes." Furthermore, CURB supports all of the EDR design considerations LEI laid out in the study:

- Is the EDR necessary and sufficient to secure the load?
- Does the EDR exceed the marginal cost of providing service?
- Does the EDR benefit *all* ratepayers?
- Who pays for the discount?
- Should there be additional eligibility requirements?
- Are mechanisms in place to ensure load is maintained once the EDR has ended?

The fundamental issue at hand is that utility rates in Kansas are at burdensome levels for *all* customer classes, not just large commercial and industrial ratepayers. From CURB's perspective as an advocate for residential and small commercial ratepayers (customers who are generally ineligible for EDRs), the consideration of economic development incentives often results in a moral quandary. This is particularly true in scenarios where a large industrial customer is threatening to leave the utility's system if not provided rate relief. CURB represents many fixed and low-income ratepayers who are struggling to make ends meet, but have no leverage to make demands of their utility company. Therefore, while it may be accurate that all other ratepayers would be worse off without the large customer on the system, it is downright heartbreaking for CURB to support increasing the rates of struggling low-income customers in order to provide discounted rates to a large company managed by very well-compensated executives. CURB emphasizes the importance of verifying the necessity and sufficiency of EDRs on a case-by-case basis to avoid the negative impact of free-ridership upon the vulnerable Kansas residents whom CURB represents. CURB suggests that, perhaps, some form of rate relief for low-income residential ratepayers should coincide with the adoption of economic development initiatives for large industrial customers. Legislation along these lines could be helpful.

Because of CURB's concerns over cross-subsidization and free-ridership, the question of "Who pays for the discount?" is also a critical one. According to LEI's research, "Jurisdictions across the country have either: (1) required shareholders to absorb the discount, or (2) required this responsibility to be shared between both the utility's customers and its shareholders, as both parties benefit from the EDR indirectly…." Based on these findings, CURB would be hard-pressed to support an EDR design wherein no portion of the discount was absorbed by the utility's shareholders, particularly when the utility stands to benefit from the additional load, increased utilization of capacity and a broadened customer base.

RETAIL COMPETITION. LEI addresses Retail Competition in Section 6.4 of the Study. LEI outlines the three main models of electricity sector organization, some of which enable retail competition: the traditional vertically integrated model, single buyer model and fully unbundled model. LEI states that Kansas does not fit clearly into any of these models. LEI then describes the states that utilize each model. Noting that utilities have historically enjoyed a monopoly over customers in the traditional vertically integrated model, LEI describes the continuum of utility engagement under retail competition from low customer engagement (where the utility provides

transmission and distribution) to high customer engagement (where utilities compete with other electric providers). LEI then describes the retail competition models in Texas, the Northeast United States and Midwest United States.

LEI list three potential benefits that may flow from retail competition: electric price competition, customer choice and innovation as to product services. On the other hand, LEI acknowledges that retail competition has several challenges, including the cost and complexity involved in changing a service territory from a traditional vertically integrated model to one in which retail competition is allowed and the need to protect residential customers. CURB is certainly aware that in states where retail competition has been allowed, there have been problems associated with customer understanding of their choices and consequences and even fraud. LEI alludes to these problems in the Study.

Although residential customers could potentially benefit from retail competition, the paths leading to any such benefits are fraught with peril. CURB is aware that many states that opened service territories up to retail competition did not experience electric price decreases (at least for a substantial period, if ever). Moreover, several states have had to increase regulatory staff to provide protection for retail consumers, particularly residential customers. As CURB reads LEI's evaluation of retail competition in the Study, it appears to be one of extreme caution. CURB agrees. To realize retail competition in Kansas, considerable study and careful evaluation of several issues need to be made. It would entail significant costs and has no assurance of benefits to residential consumers. Importantly, retail choice can lead to problems with system reliability.

Therefore, CURB would not support retail competition presently. CURB hopes that Kansas electric prices can be reduced by the other best practices outlined in the Study. Thus, retail competition should be considered an option of last resort. That is to say, if utilities continue to increase prices, failing to grasp even the most rudimentary aspects of customer impact (in particular, residential customers), Kansas may have no other choice but to seek a different model of regulation including, but not limited to, introducing retail competition.

In these regards, it is very interesting to look at the experience of Pennsylvania. As noted by LEI, at the time (1996) when Pennsylvania decided to engage in electric retail competition, it (like Kansas now) faced high electric prices – 15% higher than the national average. By the end of 2018, Pennsylvania's electric rates did not remain that relatively high, being 4% lower than the national average. Several energy providers are active in the state, leading to increased customer choice. These are certainly encouraging statistics relative to residential customers who are currently stuck with high electric prices. Nonetheless, CURB urges severe caution in changing Kansas' regulatory structure without careful study, coherence with the Kansas SEP, and the realization of the severe risks associated with retail competition.

RENEWABLE ENERGY. In Section 6.5.1 of the Study, LEI addresses renewable energy. As of July 2019, Kansas had a total renewable installed capacity of over 6 GW, comprised of over 5.5 GW of installed wind capacity and just under 30 MW in installed solar energy. Almost all renewable electricity generation in the state comes from wind power. Kansas has the largest share of electricity generated from wind energy in the United States at 36%.

LEI notes that Kansas has vast renewable energy potential. It states that Kansas ranks second in the United States for wind energy potential with projections indicating the state could provide over 7 GW for export from wind energy each year by 2030. Additionally, Kansas is ranked fourth in total biomass production, with an annual production capacity of 60 million gallons per year, driven by a strong agricultural sector that provides abundant feedstock.

It is interesting that LEI points out that the Kansas legislature enacted the Renewable Energy Standards Act (RESA) in May 2009, which required Investor Owned Utilities (IOU) and electric cooperatives to generate or purchase 10% of peak demand capacity from eligible renewable resources between 2011 and 2015. This amount was to increase to 15% in 2016-2019 and 20% in 2020. However, due to bipartisan support in the legislature, this act was repealed and replaced with a voluntary goal in May 2015. LEI also notes that to aid the voluntary Renewable Portfolio Standard (RPS), Kansas enacted a property tax exemption for renewable energy projects. The property tax exemption was initially established for the life of property that is regularly used to generate electricity using renewable energy resources or technologies but is now only in effect if the facility filed an application for an exemption or received a conditional use permit on or before December 31, 2016. Facilities with applications filed after December 31, 2016 will be limited to ten years of exemption. Additionally, state tax credits are available for projects that convert waste heat or biomass to energy.

Thus, LEI acknowledges that Kansas stakeholders deem renewable energy resources as beneficial and valuable energy sources, from the Kansas legislature to utilities to environmental and regulatory groups. In these regards, it should be remembered that in the Study, LEI emphasizes, "No additional state-mandated incentives are needed to drive increased penetration of renewables. It is expected that the drivers for renewable energy will sustain their continued build-out." As renewable energy resources continue to be built and used when appropriate, these resources may replace generation that some stakeholders view as being less environmentally compatible, even without incentives.

In fact, CURB notes the actions taken by the Southwest Power Pool (SPP), who has planned 102 interconnection projects in Kansas, with 86 from renewable sources, of which 35 are solar-related and 49 wind-related. In addition, Evergy plans to add 200 to 300 MW of renewable resources proposed in 2019 and 2020; and Southern Pioneer plans for 100 MW of renewable resources to come online in December 2019. CURB also notes the emerging trend in Kansas of increasing corporate renewable procurement. The ENGIE East Fork Wind Project 196 MW project is projected to be online in spring of 2020. Other projects include Google 200 MW Cimarron Bend, and Microsoft 178 MW Bloom Wind.

CURB is committed to providing efficient and effective legal and technical representation for residential and small commercial ratepayers and to ensure that utilities are allowed to charge only just and reasonable rates to Kansans. Since CURB's mission is to zealously protect the interests of residential and small commercial ratepayers before the Kansas Corporation Commission and the Kansas legislature, there is concern over the cost of renewable energy platforms. CURB believes that all costs associated with building out renewable resources by utilities must be considered. Ratepayers, in particular residential and small commercial ratepayers,

pay the lion's share of new generation plants built by utilities. Thus, these investments should be proven to be "used and required to be used" and prudent in order for them to be included in rate base. It is also important to remember that renewables can significantly impact system reliability. In short, there is a critical balancing act between obtaining renewable energy sources and using existing base plants to supply energy. NARUC recognizes the need for this balance in its most recent publication, "Recent Changes to U.S. Coal Plant Operation and Current Compensation Practices."

CURB is also concerned with economic disparity among ratepayers in view of renewable energy platforms used at the customer level. Some consumers can afford to purchase and install renewable energy platforms, mainly solar. For instance, according to research conducted by the Audubon Society and EnergySage during the first half of 2017, the cost to purchase and install a solar package in Texas ranges from $18,586 to $31,734. In addition, if a consumer wishes to be fully autonomous and off the power grid, they should consider purchasing either sealed or non-sealed batteries that range in price from $4,400 to $8,800. The consumer should decide which battery type and size to purchase; however, batteries are directly proportional to the amount of wattage required. Some consumers can also afford to retrofit their homes to accommodate structural improvements to support renewable energy platforms. CURB has three concerns presently. First, regulators must take actions necessary to keep utilities from discouraging renewable energy platforms used at the customer level. Legislation may be necessary to meet this goal. Secondly, policy makers and key decision-makers must consider that low-income ratepayers may not be able to avail themselves with renewable energy resources. As a result, these ratepayers could be forced to absorb rising fixed costs associated with their dependence upon utility-furnished energy. Kansas needs to take appropriate actions to protect these vulnerable citizens. Finally, CURB believes that efforts taken with respect to renewables must be consistent with the Energy Plan proposed by Governor Kelly. As noted by LEI, an energy plan should be comprehensive. Therefore, Kansas policy priorities involving renewable energy should be included in the SEP, after input by all pertinent stakeholders.

CURB represents low-income and fixed income customers; therefore, the issue of affordability is at the fore-front. For those who struggle to meet basic needs such as food or shelter, how can they be expected to afford the substantial investments required for renewable energy resources? CURB urges that the problems that these ratepayers face must be appropriately dealt with in any solution involving renewable energy resources.

ENERGY EFFICIENCY. In Section 6.5.2, LEI discusses energy efficiency in Kansas. LEI notes that the American Council for an Energy-Efficient Economy ranks Kansas very low in its state energy efficiency rankings. Further, LEI points out that while the KCC has approved a number of energy efficiency programs following a general investigation conducted by the KCC in 2008, it approved only seven of fourteen energy efficiency programs proposed by Kansas City Power & Light Co. (KCP&L) in 2016 after the enactment of the Kansas Energy Efficiency Investment Act (KEEIA). Because KCP&L did not receive KCC approval of all fourteen programs, KCP&L withdrew all proposed programs. LEI notes that Kansas relies upon a series of tests set out in the California Standard Practice Manual: Total Resource Cost Test, Program Administrator Cost Test, Ratepayer Impact Measure Test, Participant Cost Test and Societal Cost Test.

LEI posits that substantial energy savings may be achieved through energy efficiency programs in Kansas. It points out that, in the U.S., energy efficiency programs saved 27 million MWh or 73% of retail sales in 2018. These savings point to energy efficiency as a potential least-cost resource. Thus, LEI suggests that the KCC evaluate the additional energy savings, if any, that could result from energy efficiency potential in Kansas. In these regards, LEI indicates that the National Standards Practice Manual (NSPM) may allow Kansas to establish energy efficiency tests that encompass energy goals and policies in Kansas. In particular, LEI states that energy efficiency programs aimed at low-income customers can be cost-effective. Further, LEI notes that Kansas does not have any voluntary or mandatory energy efficiency resource standards (which are goals tied to energy efficiency savings). It also notes that decoupling (unbundling a utility's revenues from its sales of energy), combined with energy efficiency resource standards has proven to result in energy efficiency savings in several states.

CURB is cautiously optimistic that energy efficiency can result in savings to residential and small commercial ratepayers. CURB's caution emanates from the principle that energy efficiency must be cost-effective in order to result in energy savings. Significantly, ratepayers could be charged for energy efficiency measures, even if those consumers do not qualify for or use those measures. As a result, ratepayers may see an increase in their bills without any corresponding economic benefit. Moreover, the amount of excess energy capacity in Kansas could make energy savings through energy efficiency very difficult to achieve.

Nonetheless, CURB believes that certain cost-effective energy efficiency programs can be of benefit to Kansans. CURB wholeheartedly agrees with LEI that energy efficiency programs aimed at low-income Kansans can be of significant benefit to all Kansans. Low-income Kansans generally cannot afford the capital investments needed to take advantage of energy efficiency, such as weatherization, home energy audits and other means. Low-income residents often live in energy inefficient homes. Cooling or heating energy inefficient homes can add significant energy costs for all Kansans. Therefore, by concentrating energy efficiency efforts at low-income Kansans, the whole ratepayer base could benefit. CURB is not suggesting that, other than low-income-oriented programs, energy efficiency programs should not be entertained. However, one must recognize that there is a real risk that some ratepayers end up subsidizing energy efficiency programs used by other ratepayers.

In these regards, CURB believes that it is time to evaluate the tests used by decision-makers to determine whether any energy efficiency program is cost-effective. CURB believes that the NSPM will allow energy efficiency programs tests to reflect Kansas energy policies and objectives. Moreover, CURB believes that Kansas should have a mandatory energy efficiency resource standard. States that have energy efficiency resource standards account for virtually all of the energy efficiency savings that are enjoyed in the United States. CURB agrees with LEI that energy efficiency should be made part of an IRP. In several states, cost-effective energy efficiency is considered a least-cost resource, such that it is made the first energy resource in IRPs. CURB suggests that such a policy could help to lower energy costs, if leading to cost-effective energy efficiency. Finally, CURB believes that energy efficiency measures should be made a part of the Kansas SEP. Thus, before any energy efficiency programs are approved, the Kansas SEP should

be developed and implemented. CURB believes if KEEIA is amended, it should be amended to incorporate these concepts.

SECURITIZATION. LEI addresses Securitization at Section 6.6 of the Study. It defines securitized ratepayer-backed bonds as financial assets created for the purpose of lowering current utility rates by using non-bypassable charges to refinance current assets over longer periods. LEI notes that the process for a state to create securitized ratepayer-backed bonds, or securitization, is a well-known approach to addressing stranded costs (or other extraordinary costs) in the U.S. Moreover, LEI states that securitization has been used to recover stranded costs associated with the liberalization of electricity markets, financing environmental control equipment, and more recently, paying for storm-related damage.

As LEI notes, securitization aims to achieve lower rates to ratepayers by minimizing the cost of capital for the securitized portion of the rate base. The cost of capital of the securitized rate base could be materially lower than the cost of capital of a regulated utility. LEI posits that this may come about for several reasons:

a) No cost of equity – the special purpose vehicle ("SPV"), which is a legal entity created just for the securitization, is created to house the ratepayer-backed bonds. It has no equity holders and thus, there is no equity return required, leading to lower cost of capital;
b) No income tax payments – since the SPV is a pure financing entity, all revenue would be either used for amortization of debt or payment of interest, meaning there would be no pre-tax profit on which to assess income tax;
c) Adjustment mechanism resulting in lower default risk – the special tariff charged to ratepayers to repay the SPV bonds are adjusted through an automatic mechanism that is separate from the general rate case. This lowers the SPV's regulatory risk and allows rates to be readjusted more frequently in response to changes in demand levels or other parameters affecting repayment;
d) Non-bypassable rates – the state legislature would generally require the repayment rate for the SPV bonds to be non-bypassable by ratepayers unless a ratepayer completely disconnects from the grid. In most cases, ratepayers would still have to pay the special tariff related to bond payments, even if they decide to self-generate. As long as entities are still connected to the utility's network, they would still be required to make bond payments at a rate determined by their consumption level prior to self-generation. This arrangement reduces the demand change risk of the SPV;
e) Isolated from bankruptcy risk of the regulated utility – the state legislature would generally specify that the financing order would remain in effect even if the regulated utility goes out of business or is succeeded by another utility. This arrangement, therefore, isolates the SPV from the credit risk of the regulated utility;
f) Isolated from performance and O&M risk of the underlying asset – the repayment of the SPV's bond is not related to the performance of the asset that is used to value the securitization process. The SPV is also not responsible for

any operations and maintenance cost of the underlying asset going forward, and is therefore isolated from the risk of high O&M cost;

g) The SPV is specifically structured to obtain the highest possible credit rating – since the purpose of securitization is to lower ratepayer costs through low-cost financing using an SPV, the SPV is tailored to meet the criteria necessary to obtain the highest credit rating possible. This includes having strict articles of association, financial control standards, and restrictions on allowed activities.

CURB recognizes that, under the right circumstances, securitization may benefit Kansas residential and small commercial ratepayers. However, CURB is certainly mindful that ratepayers would back these bonds. If something unfortunate takes place, ratepayers ultimately could be subject to significant consequences. In these regards, CURB notes the obvious fact that securitization is merely a tool used to lower borrowing costs to accomplish a beneficial goal, such as recovering stranded costs when necessary. In other words, if the goal would not benefit ratepayers, the use of securitization to lower the costs of accomplishing that goal will not transform the goal into a beneficial one. Therefore, the process should be as follows: First, decision-makers must determine whether a certain goal (such as retiring a coal plant) will significantly benefit ratepayers. Importantly, residential ratepayers will back the securitized bonds and should primarily benefit from the selected goal. If the goal is determined to be substantially beneficial to residential and small commercial ratepayers, only then should decision-makers decide whether securitization is the best means to accomplish that goal. Further, those that are familiar with the bond process note that securitization is a very complicated process and, because of transaction and other costs, securitization depends upon the size of the bond, among other factors, to significantly lower borrowing costs. In short, CURB believes that securitization should not be lightly considered before it is undertaken.

In sum, while CURB is intrigued by some aspects of securitization, CURB is mindful of its mandate to represent the interests of residential and small commercial ratepayers, both before the Kansas legislature and KCC. Thus, CURB believes that any securitization legislation should be part of a statewide energy plan, as recently proposed by Governor Kelly, that would encompass numerous concepts that could benefits the people of Kansas. Moreover, securitization must be understood to involve risk and time allocation regarding certain investments. Whether shareholders or ratepayers should bear the risks of uneconomic assets, and to what extent, should be considered in the process.

CURB also points out, as stated by LEI, that securitization can only come about in Kansas with the implementation of proper and effective securitization legislation. Currently Senate Bill 198 (SB 198), introduced on February 15, 2019 by Senator Hawk, is before the Senate Utilities Committee and has garnered support from numerous parties. SB 198 would enable the retirement of existing electric generation assets and the securitization of the remaining book value of those retired assets' value through the issuance of Kansas Energy Bill Reduction Assistance Bonds ("K-EBRA Bonds"). CURB notes that LEI has posited several concerns that it has with SB 198. CURB has not fully evaluated SB 198 and would appreciate the opportunity to weigh in when and if SB 198 is amended to reflect LEI's concerns.

Further, while SB 198 is directed toward the retirement of coal-generation plants within the state, it may have adverse consequences and could affect other entities. For example, CURB is concerned that reliability could be affected or that there could be a significant increase in the building of additional gas and renewable facilities to compensate. The costs of these new projects could significantly impact residential and small commercial ratepayers. Legislation should grant the KCC the scope and authority to look at each individual asset being considered for securitization and make a full and detailed decision on whether the securitization of that particular asset is beneficial to the ratepayers of the State of Kansas, as well as the other stakeholders.

All aspects of securitization need to be carefully thought through by all participating stakeholders. This is a very complex issue and there is no template on how best to proceed as each state is different and stakeholders may hold very different views on the best structuring of securitization legislation.

CONCLUSION. As noted earlier, the Study does not provide a simple answer to the problem of high electric rates in Kansas. LEI did an excellent job of evaluating some of the pros and cons associated with the issues it was commissioned to study. The Study provides considerable food for thought. It provides a beginning to searching for a means to reduce prices.

Certainly all those politically aware will realize that several stakeholders will argue that the Study supports their position with respect to the needs of Kansans regarding the electric utility regulatory environment. However, CURB does not read the Study as supporting any particular stakeholder's position. The Study provides benefits, costs, risks and issues needing to be addressed before Kansas forges any particular new energy-related programs. For the most part, energy efficiency, performance based regulation and the several utility programs discussed in the Study are potential tools to be used to better Kansas' situation. There are certainly a number of best practices described in the Study, but there does not appear to be any best practices that will not require thoughtful application.

CURB agrees with LEI's takeaways that Kansas needs an energy plan that is comprehensive, adaptable, guiding and strategic. Comprehensiveness is absolutely an essential aspect of any good energy plan. Kansas would not be well-served by energy programs that are entirely inconsistent with policy goals and priorities of the state. Therefore, while the best practices outlined and discussed in the Study should be examined right away, policy makers and key decision-makers must be cautious to take steps consistent with the energy plan. CURB also supports continuation of the KCC's work on an IRP.

As for starting points, CURB encourages Kansas' decision-makers to adopt an energy plan in the immediate future, after careful consideration of Kansas' energy policy priorities and stakeholder involvement. CURB further suggests that the IRP process that the KCC has adopted for Evergy should be strengthened as feasible as possible. If securitization is optional and only a tool to be used when appropriate and cost-beneficial, CURB would recommend starting a study on this issue. Finally, CURB believes that it is time to adopt the National Standards Practice Manual and to look at ways to implement energy efficiency programs for low-income residential customers.

CURB again wishes to thank the LCC for its work in retaining LEI to conduct the Study. CURB further acknowledges the professional work that LEI conducted. CURB anxiously awaits the second part of the study. Finally, CURB appreciates the Kansas legislature's concern for the residential and small ratepayers in Kansas.