

Senate Utilities Committee
Testimony of Citizens' Utility Ratepayer Board
Written and Oral Testimony
Neutral Testimony SB 348
January 22, 2026

Chairman Fagg and members of the Senate Utilities Committee, thank you for this opportunity to testify regarding Senate Bill (SB) 348. My name is Joseph Astrab and I am the Consumer Counsel for the Citizens' Utility Ratepayer Board (CURB). CURB is the advocate for residential and small commercial ratepayers before the Kansas Corporation Commission (Commission or KCC) and the Kansas Legislature. I am furnishing neutral testimony on SB 348.

SB 348 creates new language to exempt certain electric public utilities from KCC regulation, supervision, and control if the utility is a not-for-profit wholly owned subsidiary of a corporation organized under the electric cooperative act (K.S.A. 66-14-4601 et seq.) and it provides retail electric service to customers. The bill provides for a mechanism by which a utility's customers may petition the Commission to review the unregulated utility's rates and practices on a case-by-case basis. Additional provisions in the bill provide guidance on the exempted utility's procedure for notice to its customers and accessibility of rates and charges, while also seeking to maintain KCC jurisdiction over other aspects of its authority, such as transmission line siting and certification of service territory.

CURB is presenting neutral testimony on SB 348 with several concerns and observations for the Committee's consideration. Section 1 (a)(1) and (2) establish the qualifications for an electric public utility to be exempt from KCC regulation that appear to apply to at least one currently operating utility in Kansas: Southern Pioneer Electric Company out in south-central and western Kansas. It is a not-for-profit wholly owned subsidiary of Pioneer Electric Cooperative, Inc., a non-KCC-regulated cooperative, who, in turn, is a member-owner of Sunflower Electric Power Corporation. Due to its unique corporate structure as a not-for-profit subsidiary, Southern Pioneer is not classified as a typical cooperative under Kansas law. As a result, KCC exercises jurisdiction over Southern Pioneer, but developed a different type of ratemaking system than other regulated utilities. Southern Pioneer does not raise equity to fund its operations, nor does it allow its customers to directly share and receive the benefits of equity. Instead, Southern Pioneer utilizes financing from a lending institution, CoBank, and rates are set through a mathematical formula to ensure sufficient revenue is generated from rates to satisfy loan obligations with CoBank. This "formula-based ratemaking" (FBR) takes into consideration minimum payments necessary to comply with loan covenants, additional cushions to the revenue level, and an "equity cap" that measure the rate at which the company is generating equity to limit rate increases.

The KCC and stakeholders, like CURB, review filings from Southern Pioneer to make changes to the rates through the FBR process. Most recently, in Docket No. 26-SPEE-099-RTS,

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Southern Pioneer requested permission to continue its FBR process for an additional five years, with some modifications like removing the equity cap test and adjustments to retail rate design. CURB and KCC staff filed testimony supporting continuation of the FBR program, but opposed the request to remove the equity test, citing to its effectiveness in controlling rate increases and bill impacts. That docket is still pending before the KCC.

CURB's authority to intervene in cases on behalf of utility ratepayers is wholly created by statute. In that regard, CURB believes that the Legislature may expand or reduce that authority as it deems fit. As it relates to SB 348, CURB believes that the focus of the analysis should be the impact on ratepayers that are affected by changes. Although CURB has reservations about SB 348, if there is evidence or indication that the customers of Southern Pioneer have been sufficiently educated and are supportive of this change, then a shift in regulatory treatment could be warranted. Notwithstanding customer approval, SB 348 fails to address key considerations regarding customer input and existing corporate structures.

It will be helpful for the Committee to study the statute that governs KCC jurisdiction regarding electric cooperatives. K.S.A. 17-4630 states that cooperatives that engage in the business of supplying electric energy are subject to KCC jurisdiction. However, K.S.A. 66-104d allows such cooperatives the ability to be exempt from certain aspects of KCC jurisdiction through a formal voting process by its members. Such an exemption can be terminated through the same process. Under 66-104d(g)(1), customers of an exempted cooperative may get together to petition the Commission to review rates and charges for reasonableness and authorize the Commission to modify unjust or unreasonable rates.

SB 348's provisions mirror much of the language of 66-104d. However, SB 348's language is more stringent for companies like Southern Pioneer. First, rather than establishing a process to be exempt from KCC jurisdiction under 17-4630, SB 348 directly exempts qualifying public utilities at the legislative level. CURB believes that the customer voting process is a vital part of the decision to be exempt from regulation. In 66-104d, there is a detailed process by which the utility must follow to verify a decision to be exempt or not, including discussion about the proposal to modify regulation status. CURB would expect there to be information about comparative cost savings and future proposals to set rates under a new status. Importantly, there is the option to reverse a decision if customers are not satisfied. SB 348 does not include such a voting process to determine whether to be self-regulated or not.

Moreover, SB 348 does not prescribe a way for newly exempted individual utilities to "opt-in" for KCC regulation beyond case-specific reviews of rates. To CURB, it would be much more difficult for individual ratepayers to petition to reverse regulation status again through legislation. This, in turn, gives a significant amount of leverage to parent companies in this determination. Under SB 348, customers of an exempted utility can petition the Commission to perform an investigation into the utility's rates after those rates have gone into effect. This is a shift in KCC regulation where new rates must be reviewed and approved before being assessed. Through a voting process like in 66-104d, customers can be given information about such changes and ask

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questions before moving forward. SB 348 does adopt language from 66-104d in regard to specific customer levels that support an investigation and notice requirements. But that language is again from the voting process for overall exemption rather than individual investigations. That distinction is meaningful when one considers what is at stake in the respective procedure.

The differences in ability to opt in or out of KCC regulation feel more restrictive under SB 348 than in 66-104d. One could argue that the difference in corporate structure between true cooperatives and ones under SB 348 warrants a different treatment of customers. On the other hand, if a utility is going to be self-regulated like a cooperative, it stands to reason that the utility's customers should have similar rights and privileges as other cooperative members. Namely, more direct control over rates and decision making. SB 348 does not touch on this issue or expand upon the definition of cooperative to include a company like Southern Pioneer. As the subsidiary, Southern Pioneer receives guidance from Pioneer Electric. It is not clear from SB 348 whether Southern Pioneer customers will have similar access to management decisions and selection of executives as other cooperatives.

Prior to altering the ratemaking process for a company like Southern Pioneer, CURB believes it would be best for ratepayers and decisionmakers to be made aware of plans related to self-regulation processes and anticipated rate trajectory with comparisons to rates under regulation. Outside of additional testimony, it is unclear why there is a need to seek exemption from KCC regulation at this time. As discussed above, there is an open docket at the KCC examining whether to grant a request to continue the FBR process for setting rates. KCC technical staff has suggested that Southern Pioneer track its expenditures from its regulatory activity under the FBR framework compared to costs for traditional general rate cases to better understand the costs and benefits of the unique ratemaking structure. In short, CURB believes that additional information about the potential effects of SB 348 on utility rates and ensuring sufficient customer safeguards is a prudent step in evaluating this bill.

For the reasons stated above, CURB submits neutral testimony on SB 348 for the Committee's consideration.