

Good afternoon. Thank you for the opportunity to share some thoughts with you about cost recovery, especially in Kansas.

What role do, or should, states play regarding security? States should be monitoring the cyber and physical security efforts of jurisdictional utilities by using such tools as NARUC'S Cybersecurity Survey. That review should be at a level sufficient to determine the efforts are compliant with any relevant NERC standards, as well as best practices. Utilities in Kansas are statutorily required to provide efficient and sufficient service and, therefore, have a legal requirement to take steps to protect their systems from cyber and physical attacks. Kansas does not have any explicitly mandated cyber and physical security standards, by either statute or Commission order. However, the Commission has the ability to issue a show cause order to any utility that it believes is not taking adequate steps to protect against cyber and physical security threats.

The most effective incentives for utilities, and the only ones available in Kansas, are the timely recovery of costs and tracking of O & M expenses. In Kansas, gas utilities are permitted by statute to recover capital costs for security through a gas system reliability surcharge (GSRS) (K.S.A. 66-2202, attached). In addition, several investor-owned gas and electric utilities have a Commission authorized surcharge mechanisms to recover O&M expenses related to security. These incentives appear to be sufficient for Kansas utilities to invest appropriately in security.

Any new capital investments to address mitigation of emerging threats are covered only under the GSRS statute for timely recovery of costs, since only O&M expenses are covered under the Commission authorized surcharges. However, Staff will consider a utility's request for an Accounting Authority Order (AAO) to defer significant costs that are outside the control of

the utility. AAO's are generally used to defer expenses, but can be used for capital investments as well.

As long as the utility can provide Commission Staff with sufficient rationale supporting the prudence of making investments that go beyond compliance with mandatory reliability standards, Staff would most likely recommend recovery of the investments. More specifically, Staff would most likely not apply a least-cost standard to an energy facility designated as high-risk or critical.

The primary factors for commissions to be aware of are the threats, vulnerabilities and the utilities' duty of protection, prevention, detection, and response to cyber and physical threats; all factors that can be included on an industry-wide basis or at a multi-state level.

Federal and state authorities should not prioritize incentives for security investments. How does the Commission's Staff know what investments are most appropriate for a particular company? How do commissioners know? Those are decisions that are best left to the utilities. Timely recovery should provide sufficient incentives for a utility to meet its legal obligations to provide efficient and sufficient service.

What states and the federal government can do is facilitate public/private partnerships, such as the Kansas Intelligence Fusion Center. Information about the most serious threats to critical infrastructure will never be unclassified. The private sector needs more staff clearances to fully understand the nature of the threats and objectively compare those threats to the company's defenses. The underlying question companies should ask is, "How does the threat affect my company?" No company should expend funds for defenses **unless** it knows the answer to that question. No commission should approve recovery of expenses unless the company can explain the necessity of the expense.

Jay Scott Emler; Commissioner, Kansas Corporation Commission

CRISP is a good tactical tool to plan for today. The classified environment provides strategic tools to plan for tomorrow. This marriage of utility operations with intelligence knowledge is a fledgling science, but, it has been proven so effective, the Kansas Corporation Commission is funding an analyst position in the Kansas Intelligence Fusion Center to assist Kansas utilities.

We strongly believe defense of critical infrastructure **is** defense of our nation.