

Before the House Committee on Energy, Utilities and Telecommunications

February 19, 2019

Neutral Testimony
On House Bill 2273

Submitted by Leo Haynos, Chief Engineer, Utilities Division
On Behalf of
The Staff of the Kansas Corporation Commission

Chair Seiwert, Vice Chair Schreiber, Ranking Minority Member Kuether, and members of the committee, thank you for the opportunity to provide written testimony to your committee today on behalf of the staff of the Kansas Corporation Commission (Commission).

The Commission Staff is taking a neutral position on HB 2273. But I would like to use this opportunity to explain the Commission's jurisdiction related to generation siting, and in particular, to jurisdiction over windfarm facilities.

HB 2273 addresses the siting of wind turbines and associated facilities. Briefly, HB 2273 establishes minimum setback distances from certain structures and establishes procedures for county commissions to follow when reviewing and approving applications for the construction of facilities (e.g. windfarms). I would point out typical windfarm facilities also include electric transmission lines that may be anywhere from five to 75 miles long (or longer in certain circumstances), and operate at voltages up to 345 kilovolts. These lines, which are commonly referred to as generator tie-lines, are considered by Staff to be part of the generation facility, and pursuant to K.S.A. 66-104(e) are exempt from the Commission's jurisdiction.

While the Commission has broad regulatory authority over electric public utilities, there are three categories of electric utilities over which the Commission has limited or no statutory authority. These categories and their related statutes are as follows:

- K.S.A. 66-104(b) and 66-104f give the Commission limited authority over municipally owned and operated electric facilities more than three miles outside the city boundary;
- K.S.A. 66-104b and K.S.A. 66-104d limit the Commission's authority over electric cooperative public utilities to matters dealing with service territory, certain charges, fees and tariffs related to transmission service, certain sales of power for resale, wire stringing, and transmission line siting.
- K.S.A. 66-104(e) allows any owner of electric generation facilities constructed after 2001 that are not included in the rate base of a public utility or cooperative to elect to not be considered as a public utility.

With the exception of nuclear generation facilities, the public utility statutes and the Commission's rules and regulations do not address the siting of generation facilities. It is my understanding chapter 66 of Kansas' statutes contains only two statutes that address the Commission's review of electric facility siting. K.S.A. 66-1,159 addresses the siting of nuclear generation facilities, and K.S.A. 66-1,177 addresses the siting of electric transmission lines.¹ While the siting of nuclear facilities would apply to any electric utility, the siting of transmission lines applies only to electric *public* utilities.

Because K.S.A 66-104(e) effectively exempts merchant power plants, such as windfarms, from being considered public utilities it is Staff's position the Commission has no authority whatsoever over siting of windfarm turbines or any of the windfarm's associated facilities such as generator tie-lines.

Thank you for the opportunity to present written testimony to your committee.

¹ Transmission line siting review is restricted to those lines that are at least five miles in length and used for the bulk transfer of two hundred thirty kilovolts or more of electricity.