



Testimony of
Evergy,
Kansas City Board of Public Utilities, &
Sunflower Electric Power Corporation

Support for SB 417

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Chairman Finch, Vice Chair Schreiber, Ranking Member Kuether and members of the Committee:

The electric utilities in Kansas thank you for the opportunity to provide information in support of SB 417, which would allow for an increase in state permitting fees for solid waste disposal units at utilities with coal-fired generation. The increased fees would help ensure that Kansas can operate under a state-permitting program rather than being subject to a federally permitted program. We appear before you today representing the utilities in Kansas with coal-fired units that generate coal ash as a byproduct. This ash is also referred to as coal combustion residuals (CCR) and we have strict environmental requirements regarding handling that material since the Coal Combustion Residuals Rule was finalized by the Environmental Protection Agency (EPA) in 2015. The CCR rule is the first federal regulation governing coal ash and disposal of coal ash residuals in utility owned landfills and surface impoundments, including both dry landfills and ponds consisting of water and ash.

The CCR rule falls under the federal Resource Conservation and Recovery Act (RCRA) Subtitle D. The Kansas Department of Health and Environment (KDHE) currently has federal approval to administer Subtitle D regulations for municipal solid waste landfills, which does not include CCR units. No mechanism previously existed for states to administer the CCR rule until the Water Infrastructure Improvements for the Nation (WIIN) Act was finalized by Congress in 2016. Since then, some states have submitted and received approval to create a state CCR permit program that oversees compliance with the federal CCR rule.

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The electric utilities spent significant time working with KDHE in 2017, 2018 and recently to modify the state industrial solid waste permitting program to achieve delegation from EPA under the CCR rule. Delegation would allow KDHE, as the alternative to EPA, to administer CCR regulation in Kansas. This effort had been put on hold due to CCR rule modifications and some legal challenges regarding a few states' approval processes. KDHE has again been working with EPA and the electric utilities over the past year and is now in a position to request approval of a state program once state funding modifications are in place. For states that do not have an approved state permit program, EPA will implement a federal permit program. A state-approved CCR permitting program is preferred by Kansas utilities and benefits our electric customers by allowing for local regulation and oversight.

KDHE is currently limited to a \$4,000/year charge for each permitted waste disposal area per state statute. The Bureau of Waste Management is funded by tonnage fees and permit renewals and receives no State General Funds (SGF). A state-managed CCR permitting program will require additional resources to manage and ensure compliance under the rule. KDHE has determined a need for approximately 1.5 full-time employees and associated expenses to manage the program. All current CCR units are owned and maintained by Evergy, Kansas City Board of Public Utilities, and Sunflower Electric Power Corporation. KDHE has estimated that required funds for this new program will be approximately \$169,000. The proposed bill moves the minimum charge to \$12,000/year per CCR unit with a maximum fee increase of no more than \$16,000/year. The minimum fee will apply until regulations are adopted by the secretary, which KDHE expects to take a minimum of 12 months to occur. KDHE has agreed to work with affected stakeholders to determine necessary funding in the future to ensure that this program is self-sufficient.

The CCR Rule is technical by nature and requires groundwater monitoring for many different constituents to assess impacts to the environment from coal ash in landfills and surface impoundments. It is also very prescriptive regarding periodic reports that must be maintained and available to the public along with ongoing care of CCR units during operation and after closure. Many of these requirements continue for decades after a unit is closed. KDHE staff are familiar with our sites based on their current oversight under RCRA subtitle D and numerous ongoing interactions regarding air, water and waste permitting programs.

Evergy, the Kansas City Board of Public Utilities, and Sunflower Electric Power Corporation support SB 417 and the associated funding that will allow KDHE to implement a state-managed CCR permit program in lieu of federal oversight by federal EPA regulators that are not local to our area and existing programs.

For these reasons we respectfully request that you pass SB 417. Thank you for your consideration.