



*Opponent Testimony Provided to the
Senate Utilities Committee
January 27, 2022*

Gina Mace, Public Policy & Institutional Affairs Manager – North Central Region, Enel North America

In Opposition to Senate Bill 324

Good afternoon Mister Chairman, Vice-Chair and Ranking Member,

Introduction:

Enel North America, through its subsidiary, Enel Green Power, is a leading developer, owner and operator of renewable energy projects and currently has the largest wind capacity of any wind operator in the state of Kansas.

Position:

Enel Green Power opposes the passage of SB 324 because it will undermine Kansas' commitment to preserve privately owned property rights, and we request your "no" vote.

1. This bill interferes with private citizen-landowner's rights to freely enter contractual agreements with private developers by interfering with contractual agreements to use their property at liberty.
2. The bill creates multiple conditions that must be met, any one of which could invalidate the contract, such as having a conditional use permit, or have construction started or operation started within 36 months, which may not be possible if there is an application for interconnection which can take much longer than 36 months.
3. The bill is also internally consistent in that it creates a condition for termination within 36 months and then declares the contract void within 5 years if any of the conditions are met.

Enel's Interest:

Enel Green Power operates six wind power plants in Kansas, representing over \$2.7 billion in total investment and has created 210 full-time, permanent jobs in the state. Enel Green Power will provide more than \$144M in PILOT payments over a 20-year period to the counties that host its wind projects. Over \$36.5M has already been paid through PILOT payments, and another \$107.5M will be paid over the next 20 years. If SB 324 passes, it will cause Enel, and companies like it, to consider investing in other communities in other states, leaving these communities with less economic opportunities than they have today.



Conclusion:

It is through common law, state law, and the Constitution that the rights of people to acquire, use, and dispose of property freely are protected. The idea of “property” entails and represents all the legitimate uses that can be made of the underlying estate, giving it value. Entering into an easement or lease agreement with a wind or solar developer is a productive use of private property that should be decided and agreed upon by the landowner, without interference by state government.

SB 324 interferes with landowners’ private property rights and private business wind and solar developers’ right to contract and freely conduct business. Agreements reached between private landowners and developers should not be void based upon state law that fails to capture the time and diligence needed to develop wind and solar projects.

Thank you for your consideration and we urge your opposition to SB 324.