

Kansas Senate Utilities Committee

Testimony in favor of SB 353

Submitted by Bryan W. Coover

2/9/2022

Chairman Mike Thompson and members of the Committee:

My name is Bryan Coover. I reside in southern Neosho County, Kansas. I have an engineering degree from KSU. I have served on the board of Twin Valley Electric Co-operative for 20 years. I have served nearly as long on the board of trustees of Kansas Electric Power Co-Operative, a generation and transmission co-op that provides power to 16 rural electric co-ops in eastern Kansas. I am currently the treasurer of KEPCO. KEPCO owns part of Wolf Creek Nuclear power plant, a small share of Iatan 2 (a high efficiency coal plant north of Kansas City) and maintains long term contracts with two hydroelectric administrations as well as Evergy and the Southwest Power Pool. This is my testimony in support of SB 353 as a private individual and citizen of Kansas, not as a representative of the above organizations.

My wife and I have lived on our farm in Neosho County for 30 years. We chose this farm for the natural beauty of the area. The construction and start of commercial operation of the Neosho Ridge Wind complex of 139 turbines has completely transformed our surroundings and that of those living here. By its very nature, a wind facility includes the whole area where it is installed. The effects of the constant night-time flashing red lights- each 139 towers having 2-, go far beyond the facility. The requirement of radar-activated turbine tower lighting would be the single-most important remedy to the negative visual effects of wind turbines.

I am here to support SB353

Last year, the Kansas Senate Utilities considered a bill that would have regulated several aspects of the wind development industry. The opponents to that bill argued that all counties where wind farms have been built had welcomed wind turbines with open arms. They may have had some success convincing the committee that only a small percentage of residents living where wind farms are proposed have been vocally opposed in their communities. Counties in western Kansas are held up as examples, where very few people live within the wind facility. There is seldom a non-leasing landowner within the facility.

The argument that you will hear against mandating setbacks to non-participating property owners is that it will stop development of wind facilities. SB 353 will have nearly no effect on wind development in the western 2/3 of the state. In the eastern part, with its much higher rural population and smaller properties, successful wind developers will need to negotiate with all stakeholders in the proposed footprint. This is not an impossible task on the part of a wind developer. The wind company may have to offer contract agreements and money for lesser setbacks to more landowners, but in this way of consent and contract, the land rights of the people involved is restored. It took a settlement of the lawsuit filed by area landowners in the Neosho Ridge Wind project for Apex wind developers to extend this right to negotiate a contract or reject a contract, but only to those who joined the lawsuit. More than half of the acres leased to Neosho Ridge Wind is owned by people who do not live in the area. Leases or consent by agreement from less than 20% of the residents of the footprint were obtained

before building the Neosho Ridge Wind complex. Most landowners were not offered a consent contract or compensation because the minimal setbacks did not require the wind developer to ask. Landowners should not have to sue a large, international corporation to preserve their basic landowner's rights. This bill would help to ensure that this right is regained.

Also of value in passing SB353 is that it changes the dynamics of wind farm development. Today, local resident involvement is minimal until significant expensive activity has occurred on the part of the developer and future owner before the county commissioners are even involved. The timeline for Neosho Ridge Wind was as follows:

10/16/17 Liberty/Empire issued a Request for Proposal for up to 800 MW of wind capacity, 11 wind developers including Apex received requests

Late 2017 A transmission request was filed with the Southwest Power Pool to inject 302MW of wind energy into the Neosho/Caney River 345KV transmission line.

August 2018 Apex Clean Energy appears before the Neosho County Commission to report that substantial land leasing was complete for a 300 MW wind farm in southern Neosho County. About this time, Apex filed 139 preliminary turbine locations with the FAA.

10/10/18 Liberty/Empire and Wells Fargo agree to become tax equity partners for NRW and 300MW of wind capacity being leased north of Joplin

10/30/2018 Neosho Ridge Wind joins Steelhead Wind to become Neosho Ridge Wind, JV on advise and conditions of Liberty/Empire ownership. This takes advantage of Safe Harbor Rule and makes NRW, and then Liberty/Empire eligible for highest level of PTCs.

About this time, Apex begins public meeting to promote wind energy. No setback negotiations are underway at this time.

11/16/18 Liberty/Empire enters into formal purchase agreement with Apex for NRW at a turnkey cost in excess of 500 million dollars.

Late December 2018: Neosho County Commission receive first draft of Apex's proposal which includes setback of 1000 feet to non-participant property lines. In early Jan 2019, commissioners argue that the proposed 1000 foot setback is inadequate. Apex offers 1025 feet as the maximum workable setback.

Spring of 2019: Apex presents engineering study on potential danger and probability of ice throw from wind turbines proposed in Neosho County. The study concludes that ice throw and potential blade failure parts could travel about 3000 feet. Apex stands firm on 1025 feet setback but increases the offered PILOT payment by 400,000 dollars.

6/6/19 County commissioners sign contracts with Apex including 1025 foot setback. Apex was prepared to sue had the contract not been signed as presented.

At this point, Apex had too much money at stake to take no for an answer. The Production Tax Credit on NRW to date totals just short of \$14 million dollars, for only the first 7 months of operation.

SB353 would force wind developers to uphold a landowner's right to negotiate or deny a contract with a private company. An added requirement for radar-activated lighting on wind towers would mitigate the most onerous visual effect of wind turbines.

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