

Before the House Standing Committee on Energy and Environment  
February 18, 2015

Proponent Testimony  
On House Bill 2233

Submitted By Jeff McClanahan, Director, Utilities Division  
On Behalf of the Kansas Corporation Commission

Chair Hedke, Vice Chair Corbet, Ranking Minority Member Kuether, and members of the committee, thank you for the opportunity to appear before your committee today on behalf of the Kansas Corporation Commission (Commission). My name is Jeff McClanahan and I am the Director of the Utilities Division.

The Commission is sponsoring HB 2233 in order to establish a roadmap regarding the process of developing a state compliance plan for the Environmental Protection Agency's (EPA) proposed Clean Power Plan (CPP). It is necessary to establish a formal process because the CPP's requirement to re-dispatch the electric grid crosses the jurisdictional boundaries of both the Kansas Department of Health and Environment (KDHE) and the Commission. Therefore, unprecedented coordination must take place in order to develop a state plan that address the complexities of the re-dispatch options, reliability and cost concerns, environmental issues, as well as the multitude of options that can comprise a state compliance plan.

HB 2233 amends K.S.A. 65-3031 by requiring two separate formal processes by KDHE and the Commission that can and should run concurrently. KDHE is required to hold a hearing and issue an order pursuant to K.S.A. 77-501 prior to issuing any state compliance plan through flexible regulatory mechanisms or voluntary agreements. The Commission is required to conduct an investigation or investigations to determine each Commission jurisdictional utility's re-dispatch options, lowest-cost re-dispatch options, and ensure that any re-dispatch option(s) selected ensure the reliability of the electric



grid. While not stated in the amended language, Commission Staff will encourage non-jurisdictional utilities as well as KDHE to participate in its investigation. The Commission will have 300 days to issue an order that provides a detailed explanation of the Commission's findings. In addition, as a component of KDHE's hearing process, it must adopt the order from the commission's investigation in order to incorporate the Commission's findings into KDHE's record. The amendments also strike the ability to implement a carbon emission trading mechanism and insert a requirement to seek specific statutory authority to implement any such trading mechanism.

The Commission has reached out to KDHE and the utilities affected (directly or indirectly) by this proposed legislation. The primary concerns expressed by KDHE and the utilities are as follows:

- The length of time allowed – 300 days – for the Commission to complete its investigation(s) may not allow sufficient time to submit a compliance plan or an interim plan requesting an extension within the one-year deadline set by EPA. Failure to file a plan within one-year could result in a Federal Implementation Plan;
- KDHE has concerns regarding the formal hearing process required, because KDHE does not traditionally use such a process; and
- The utilities are concerned that the requirement for specific statutory authority for an emissions trading program eliminates flexibility to consider such arrangements.

The Commission has made revisions to address the concerns noted above and has shared our thoughts on revisions with KDHE and the utilities. We would be happy to submit an amended version at the appropriate time.