

**Testimony of Wayne Penrod, Executive Manager Environmental Policy - Sunflower
On Behalf of Sunflower Electric Power Corporation, Mid-Kansas Electric Company, LLC,
Midwest Energy, Inc. and the Kansas Electric Cooperatives, Inc.**

**Before House Energy & Environment Committee
Regarding HB 2233
February 18, 2015**

Good afternoon, Mr. Chairman and members of the Committee. I am Wayne Penrod, executive manager for environmental policy at Sunflower. I thank you for the opportunity to speak to you on behalf of Sunflower and other electric cooperative utilities about House Bill 2233. We believe cost and reliability are critical considerations for policy makers but oppose the bill in its current form. We believe the timeline associated with the KCC review will prevent KDHE from completing its required work before the deadline imposed by EPA and that the inter-agency cooperation intended by this bill is possible without legislative action.

HB 2233 would add new requirements to the current statute that addresses GHG regulation. These changes are suggested by the KCC in response to its concerns about the cost of implementing the federal GHG measures and the potential for negative impacts on reliability of the electric grid in Kansas. We understand and agree with the KCC's concerns because the target goals identified in EPA's proposed § 111(d) rule that seek to reduce GHG reductions on existing electric generating units (EGUs) require the redispatch of electric energy production from the most economically available electric generating resources to intermittent resources and to those that would use more expensive fuels. These requirements would impose EPA authority into areas of regulation that are within the purview of KCC or the elected boards of not-for-profit electric utilities. While Sunflower is not a jurisdictional utility under the KCC, we share many of the same concerns, as does our Board of Directors.

Indeed, the proposed EPA requirements for GHG reductions to be imposed on Kansas electric utilities has appropriately drawn deep interest and inquiry by the Chairman and committee members, and you have been addressed by several expert speakers on the specifics of these issues in the last couple of weeks. As many of your members have questioned, and as the other utility companies speaking today have suggested, we believe the 111(d) rule as proposed is seriously flawed. Sunflower has submitted detailed comments to that effect to the EPA, as have more than 2 million others. The KDHE, the agency that under the Clean Air Act (CAA) is charged with developing the Kansas response to EPA's final rule, has filed comments, as has the KCC. The EPA now suggests it will release its final rule in late summer. As currently proposed, KDHE will have just 12-13 months to respond to the rule, an amazingly short period of time. We believe that the requirements added to HB 2233 make it highly unlikely that KDHE will be able to complete its work within the required timeframe.

Sunflower's business purpose lies in ensuring that the wholesale energy produced for our Member distribution cooperatives for resale to their consumer-owners is both reliable and low cost. In order to accomplish that mission, we need to ensure that an appropriate KDHE implementation plan is timely submitted to EPA. Keeping in mind that this is the most complicated and wide-reaching regulation that EPA has ever attempted, we should only expect that the KDHE's effort in response will require significant staff time throughout those available months. The EPA will have to respond to the Kansas plan: the Agency may accept it, accept it in part and reject it in part, or reject it in favor of a federal compliance plan that as yet is not proposed. The interest of Kansans is seldom aligned with one-size-fits-all federal plans.

We agree that KDHE and the KCC will need to work together carefully to get the job done. We believe the current statute allows such a cooperative approach. KDHE and KCC will need to include the following elements:

- Allow individual utilities the flexibility to consider potential emissions trading arrangements;
- Provide alternative emission standards, such as a reliability safety valve standard within the implementation plan in the event of foreseeable but unpredictable events (such as the unexpected loss of Wolf Creek or the loss of a major transmission line or substation) that could dramatically alter the state GHG emission profile; and
- Provide KDHE an "off-ramp" to submit all elements of the state plan, even if a final approval for a portion of the plan for jurisdictional utilities cannot be completed before the EPA's submittal deadline.

As a final measure, we do suggest that in order to accomplish a timely filing of a compliance plan, KDHE and KCC staff must jointly conduct their administrative hearings.

Thank you for your consideration of these comments, and I can respond at the appropriate time to any questions the Committee may have.