



February 12, 2016

**ONE PAGE SUMMARY of
Testimony Provided to House Energy & Environment Committee
In Opposition to HB 2623 - Utilities and Electric Transmission Lines**

My name is Sharon K. Segner and I am Vice President with St. Louis, MO-based LS Power Development. I provide testimony today in opposition to HB 2623.

The legislation would establish what is referred to as a “right of first refusal” for incumbent transmission owners and provide them with an exclusive right to build new electric transmission in Kansas, even when the cost for such new transmission is paid for by consumers outside of Kansas. Certain existing Kansas transmission owners seek adoption of the law (while other existing transmission owners oppose the law) because the Federal Energy Regulatory Commission issued an order in 2011, Order No. 1000, which determined that transmission projects that are paid for by two or more utilities must be competitively procured. At the same time that some Kansas incumbent transmission owners are seeking passage of this Kansas state law, they are also working with others to overturn in federal court the entire pro-competition model.

FERC Order No. 1000 concluded that rights of first refusal are inconsistent with just and reasonable transmission rates and are not in the best interest of consumers. FERC was not alone in this conclusion, with the Federal Trade Commission, state public service commissions from around the country and large industrial consumers, all weighing in at FERC strongly supporting competitive pressures.

HB 2623 seeks to undermine these important consumer goals but it is unclear what “problem” the legislation seeks to fix. The bill establishes a Kansas, in-state monopoly for the building of regional transmission projects, **which is in direct contradiction to the Kansas State Constitution and the United States Constitution.** See *Gilbert v. Mathews*, 186 Kan. 672 (1960), and *Miami County Board of Commissioners v. Kanza Rail-Trails Conservancy*, 292 Kan. 285 (2011) – two Kansas Supreme Court cases stating that legislation that serves to keep non-resident competitors out of a market, or that discriminates against non-residents with a design towards benefitting in-state economic interests by burdening out-of-state competitors, violates the Kansas and United States Constitutions.

The bottom line is that the legislation is anti-competitive, inconsistent with the Kansas and United States Constitutions, and is not in the best interest of Kansas ratepayers. We ask that you ask: how this legislation helps the consumers of Kansas? Ask: why competition for transmission infrastructure is bad for rate payers? Ask: why does Kansas need, or want, this special interest legislation? We believe that answering these questions will lead you to but one conclusion: that a rejection of this special interest legislation is warranted and in the best interest of Kansas.