

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 9:30 a.m. on March 12, 2003 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research
 Bruce Kinzie, Revisor of Statutes
 Ann McMorris, Secretary

Conferees appearing before the committee:
 Rep. Tom Sloan
 Jim Ploger, KCC
 Bruce Graham, KEPCO
 Charles Benjamin, Sierra Club
 J. C. Long, Aquila
 Mark Schreiber, Westar

Others attending: See attached list

Chair opened the hearing on
HB 2018 - Renewable energy electric generation cooperative act; issuance of bonds to finance certain electric transmission lines; agreements governing interconnection between utilities and certain renewable generators.

Proponents:
 Rep. Tom Sloan (Attachment 1)
 Jim Ploger, KCC (Attachment 2)
 Bruce Graham, KEPCO (Attachment 3)
 Charles Benjamin, Sierra Club (Attachment 4)
 J. C. Long, Aquila (Attachment 5)
 Mark Schreiber, Westar Energy (Attachment 6)

Discussion and questions regarding KDFFA financing and rates, explanation of provision that requires each member to install 100 kilowatt minimum, estimate on cost to install 100 kilowatt unit and clarification on other sections of the bill.

Chair closed hearing on **HB 2018**.

Moved by Senator Brownlee, seconded by Senator Emler, amend **HB 2018** on page 11, line 23 to add the language "or lease" after the word 'easement'. Motion carried.

Moved by Senator Taddington, seconded by Senator Barone, amend **HB 2018** by deleting the language on page 1, lines 26 and 27. Motion carried.

Moved by Senator Brownlee, seconded by Senator Emler, **HB 2018** be passed out favorably as amended. Motion carried.

The next meeting of the Senate Utilities Committee will be held on March 13.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary

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HOUSE OF
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COMMITTEE ASSIGNMENT

CHAIRMAN: HIGHER EDUCATION

MEMBER: UTILITIES

ENVIRONMENT

GENERAL GOVERNMENT &

HUMAN RESOURCES

BUDGET

TESTIMONY ON HB 2018 - SENATE UTILITIES COMMITTEE

Mr. Chairman, members of the Committee. HB 2018 was drafted to accomplish three objectives:

1. To provide an easily identifiable and readily implemented way for rural property owners who are not lucky enough to have a company like FPL-e build a wind farm on their land, to develop and sell wind power in the wholesale market. HB 2018 facilitates the creation of renewable energy cooperatives and is based on both agricultural coops and KEPCO's enabling legislation. If enacted, land owners from across a county or the state could band together and sell wholesale electricity.

The Gray County Wind Farm annually contributes approximately \$1 million to the local economy, including lease payments to property owners in the \$2,000-\$2,500 range for each turbine. Money can be made by farmers for leasing their lands to developers. HB 2018 provides a way these farmers and ranchers can band together to better capture the value of our wind.

2. To provide a mechanism to standardize the interconnection of renewable energy generators to the local utility. Last summer and fall, I met with representatives of KEC, KEPCO, Sunflower, Aquila, Westar Energy and KMU to develop HB 2018's language. The successful effort provides assurances to the utility that system safety and reliability are protected and assurances to potential renewable generators that they will have a path to market.

3. To provide a potentially lower cost financing option for upgrading transmission lines, at no risk to the state. For several years we have heard that the legislature has successfully developed incentives to construct power plants, both fossil fuel and renewable generators. KEPCO's peaking units near Wolf Creek and Sunflower's planned second unit at Holcomb attest to our success. HB 2130, that you heard on Monday, and HB 2018's KDFFA financing option are two elements to stimulate transmission line construction/upgrades to more efficiently dispatch power from existing generation units and encourage the development of our state's wind resources.

Kansas has been judged as the number one state for potential wind generation. While I want to see our farmers and ranchers harvest this crop that is not dependent on water and is immune to diseases and hail, I also want Kansas to remain a major net energy exporter. Providing a potentially lower-cost financing option is a vital part of ensuring our energy independence as the

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Hugoton field's natural gas production declines. The exportation of electricity also means that non-Kansans will continue to help pay for the fossil fuel and renewable generation units that will provide heat and light to Kansans.

HB 2018 DOES NOT: permit retail sales of electricity or retail wheeling.

Thank you for this opportunity to testify on behalf of HB 2018. I will be pleased to respond to questions.

**Utilities Committee
Kansas Senate
Written Testimony of the Kansas Corporation Commission Staff
March 12, 2003**

HB 2018

Thank you. Chairman Clark and members of the Committee, I am Jim Ploger, Manager of the Kansas Corporation Commission's Energy Programs Division.

I am appearing today in support of House Bill 2018 regarding the proposed "Renewable Energy Electricity Generation Cooperative Act".

Kansas is well endowed with renewable energy resources. Each year over half a million Btus of solar energy fall on each square foot of Kansas (15KWh/M²), representing the equivalent of 230 billion barrels of oil for the entire state. Winds driven by solar energy place Kansas first nationally in wind energy potential, according to a report last year from the United States Public Interest Research Group (US PRIG).

Renewable energy resources are enormous, but diffuse. Their efficient large-scale development requires significant land. With generally historically low prices for farm and ranch products, we could hope that development of renewable energy resources might offer the prospect of greater income for rural Kansas.

This hope could prove challenging to realize if we rely solely on conventional renewable energy business development structures where large corporations lease land for wind farm development as cheaply as possible. Wind development typically requires economies of scale that individual farmers and ranchers are seldom large enough to achieve. A traditional business structure that farmers often turn to when they need increased marketing leverage is the cooperative.

Cooperatives could offer an opportunity for rural Kansas to promote renewable energy development in a manner that is economically beneficial to rural communities. Kansas statutes outline three types of cooperatives: 1) cooperative societies, 2) rural electric cooperatives

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(RECs), and 3) agricultural marketing cooperatives. Cooperative societies are typically buyer coops. RECs are consumer cooperatives. Agricultural marketing cooperatives market goods and products.

The three critical elements for developing a wind farm are:

- 1) A site with adequate wind resources;
- 2) A market for wind generated electric energy at an acceptable price, and;
- 3) Adequate electric transmission capacity to connect the site to the market at an acceptable price.

The traditional approach for wind development has been to let the market end drive the process, typically an electric utility working with a wind farm developer. When the utility controlled transmission, this was really the only viable strategy.

Open transmission access may now make it feasible for the owners of premium wind sites to take the lead role in wind energy development.¹ If adequate transmission capacity is accessible, they can take their product to the green market within the region.

From the land owner's perspective, wind becomes a commodity to market -- much like wheat or natural gas. The amount of land required for an economically feasible wind farm will typically mean that a number of landowners will need to be involved. A traditional business structure in rural areas that many landowners may find acceptable is the cooperative.

Landowners need access to business structures that allow them to work together to develop renewable resources in a manner that maximizes their profits and the benefits rural communities. The traditional tool to accomplish this is the cooperative. "A cooperative is a business owned and controlled by the people who use its services. By working together, they can reach an objective that would be unattainable if acting alone."²

¹ This strategy may also allow more of the income from wind energy to stay in the local economy. Wind leases, sometimes taken under threat of eminent domain, have often paid landowners less than what some consider a fair price.

² Cooperative Information Report 7, Revised September 1996, Galen Rapp and Gerald Ely.

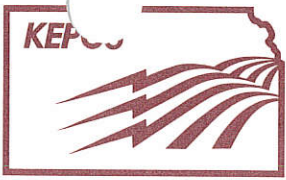
A cooperative:

- 1) **Improves bargaining power** - Combining the volume of several members can leverage their position when dealing with other businesses.
- 2) **Obtains market access or broaden market opportunities** - Value is added to products by processing or offering larger quantities of an assured quality.
- 3) **Improves product or service quality** - Adding value to products by providing improved facilities, equipment, and services.
- 4) **Obtains products or services otherwise unavailable** - Provide services or products that would not attract other private businesses.
- 5) **Reduces Cost/Increases Income** - Reducing the cooperative's operating costs increases the amount of earnings available for distribution to members to boost their income.

This is not a silver bullet. To my knowledge the concept is not put forward to benefit a specific project or developer.

The goal in to open doors, to empower Kansas land owners, farmers, ranchers, and entrepreneurs to find new ways to do what our existing utilities and businesses have not been able to do, with one notable exception. That is to get on with broad development of renewable energy in a way that maximizes benefits to Kansans.

Thank you.



Kansas Electric Power Cooperative, Inc.

Testimony on House Bill 2018 Senate Utilities Committee – March 12, 2003

*Bruce Graham, Vice President of Member Services and External Affairs
Kansas Electric Power Cooperative, Inc. (KEPCo)*

H.B. 2018 enables the establishment of a new form of cooperative that would generate electricity from renewable energy. This concept was reviewed by the 2002 Legislature and there was considerable confusion about the need for and the intent of this type of organization. As a result, the electric cooperatives of Kansas pledged to work with the renewable industry and Rep Tom Sloan to address our concerns. The result is H.B. 2018.

The concept of a renewable energy cooperative, as outlined in this legislation, was initially proposed in a June 2001 report published by the Kansas Corporation Commission's Energy Program Division. The report calls for the establishment of such cooperatives to produce and market renewable generation. The provisions of HB 2018 will enable five or more members to establish and manage such an entity and is modeled in statute after the rural electric cooperative act. The significant difference is that members (for the sake of clarity we'll name it the Cottonwood Renewable Generating Cooperative) would be able to generate renewable electricity to meet their individual needs and work together to market the excess generation on the wholesale market. Cottonwood members would be able to garner economies of scale for activities such a legal development costs and power supply marketing. By installing similar equipment, they could buy supplies in bulk, share the cost of construction, and perhaps provide full time employment for turbine maintenance.

Cottonwood members would not be able to share electricity among themselves. That would closely resemble retail wheeling and possibly be legal only if they removed themselves entirely from the electric grid. Renewable cooperative members are not likely to be totally self-sufficient because there will be many times when the wind doesn't blow and they will need electric service from a conventional utility provider.

In addition, Cottonwood members would probably have to depend on existing distribution service because it is unlikely that they would have the resources or ability to install new power lines. In fact, new line installations would probably run counter to the state's public policy declared in 66-1, 171, which is written to encourage the orderly development of retail electric service, avoid wasteful duplication of facilities for electricity distribution and unnecessary encumbrance of the landscape.

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Testimony in support of HB 2018
On behalf of the Kansas Chapter of the Sierra Club
Before the Senate Utilities Committee
March 12, 2003

Kansas law only allows three types of cooperatives: 1) cooperative societies, 2) rural electric cooperatives (RECs), and 3) agricultural marketing cooperatives. HB 2018 allows landowners in Kansas the ability to form cooperatives for the purpose of generating renewable electricity in a manner that maximizes profits for the individual landowners and provides economic benefits to rural communities. HB 2018 also authorizes renewable energy cooperatives to issue bonds through the Kansas Development Finance Authority in order to finance costs related to constructing, upgrading and acquiring transmission facilities in order to help overcome a key roadblock to developing wind power potential in Kansas.

This piece of legislation guarantees renewable coops transmission access to the transmission grid with interconnection standards to be developed by the KCC. This should be another incentive for the development of distributed generation in our state. Right now there is a lack of this type of generation and it is to our detriment.

Distributed generation reduces energy losses in transmission and distribution lines, provides voltage support, reduces reactive power losses, defers substation upgrades, defers the need for new transmission and distribution capacity, increases reliability of electricity supply and reduces the demand for spinning reserve capacity.

In a recent study Kansas was ranked first in wind potential in the United States. Wind is clean energy, does not emit greenhouse gases, and is the fastest growing form of energy in the world today. There is well-documented economic development with this form of energy which is especially critical in rural areas of our state which are experiencing hard economic times.

We urge you to pass this piece of legislation to further assist this technology in helping Kansas achieve its potential. Thank you.

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Senate Utilities Committee
March 12, 2003

Testimony on HB 2018
By
J. C. Long, Director of Government Affairs
Aquila, Inc.

Mr. Chairman and members of the Committee:

My name is J. C. Long and I am the Director of Government Affairs for Aquila, Inc. Aquila owns and operates electric and natural gas utilities formerly known as WestPlains Energy, Peoples Natural Gas and Kansas Public Service serving over 165,000 Kansas customers.

I appear before you today in support of House Bill 2018, which would provide the framework to create renewable cooperatives and also allow electric public utilities to apply for Kansas Development Finance Authority bonds for transmission financing and investments.

Aquila's main interest in House Bill 2018 begins on Page 13, starting with section 31, on allowing the Kansas Development Finance Authority (KDFA) to issue revenue bonds for electric transmission reinforcement, upgrades, acquisitions of rights-of-way or construction of new lines. We believe that this type of financial instrument, currently unavailable to utilities, will provide us with additional financing alternatives other than the current capital markets.

Today our transmission system is adequate to serve current customer needs but not adequate to carry the additional load of a major wind farm or large traditional generator. Our service territory, or control area, is an ideal location for new wind farms. With the addition of these new wind farms comes the need for additional transmission lines to export this power. Without this new transmission capacity, Kansas will not reach its wind power potential because the current transmission path, or export/import capability, is very limited.

Thank you Mr. Chairman for the opportunity to appear before you today. At this time I will try to answer any questions you may have.

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**Testimony before the
Senate Utilities Committee**

By

Mark Schreiber, Senior Manager Government Affairs

Westar Energy

March 12, 2003

Chairman Clark and members of the committee, I am Mark Schreiber, senior manager, government affairs for Westar Energy.

Although House Bill 2018 primarily addresses issues related to the creation of renewable energy cooperatives in the state, Westar Energy has particular interest and support for Section 31.

Uncertainty about how new transmission facilities will be paid for will have a significant impact on whether new investments in these expensive facilities can be made. The authorization of bonds, as outlined in Section 31, to finance costs related to constructing, upgrading and acquiring transmission facilities would benefit Westar Energy and its customers. Having the ability to consider the Kansas Development Finance Authority as a source of revenue bonds when it comes time to upgrade our transmission system could be a helpful tool.

Westar Energy views Section 31 of House Bill 2018 as supportive of providing safe, reliable electricity to Kansans.