

## HOUSE BILL No. 2226

By Committee on Energy, Utilities and Telecommunications

Requested by J.R. Behan on behalf of ITC Great Plains

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1 AN ACT concerning public utilities; relating to construction and  
2 ownership of electric transmission lines; providing incumbent electric  
3 transmission owners a right of first refusal to construct, upgrade, own  
4 and maintain electric transmission lines that are approved for  
5 construction by the regional transmission organization; requiring  
6 incumbent electric transmission owners having such right of first  
7 refusal to conduct a competitive bid process for the construction of any  
8 electric transmission line with a need date of four years or more;  
9 authorizing any other electric transmission entity to construct, upgrade,  
10 own and maintain any such electric transmission line when the  
11 incumbent electric transmission owner does not exercise such right.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) An incumbent electric transmission owner shall have  
15 the first right to construct, upgrade, own and maintain an electric  
16 transmission line that has been identified in a transmission plan and  
17 approved for construction by the regional transmission organization if:

18 (1) The electric transmission line interconnects or will interconnect to  
19 facilities owned or proposed to be constructed by the incumbent electric  
20 transmission owner; and

21 (2) the incumbent electric transmission owner exercises such right in  
22 accordance with subsection (b).

23 (b) (1) Except as provided in paragraph (2), to exercise the right  
24 established pursuant to subsection (a), the incumbent electric transmission  
25 owner having the first right to construct, upgrade, own and maintain the  
26 electric transmission line shall provide written notice to the regional  
27 transmission organization within the time prescribed by the regional  
28 transmission organization to indicate whether the incumbent electric  
29 transmission owner or an affiliate or subsidiary of the incumbent electric  
30 transmission owner intends to exercise such right for all or, if applicable, a  
31 share of the electric transmission line. Upon submission of a notice of  
32 intent to construct, upgrade, own and maintain an electric transmission line  
33 pursuant to this section, the incumbent electric transmission owner shall:

34 (A) Have obtained a certificate of convenience and necessity for the  
35 construction of the electric transmission line pursuant to K.S.A. 66-131,

1 and amendments thereto; or

2 (B) within 18 months after submission of such notice, file an  
3 application for a certificate of convenience and necessity pursuant to  
4 K.S.A. 66-131, and amendments thereto, for the construction of such line.

5 (2) For an electric transmission line with a need date of four years or  
6 more as determined by the regional transmission organization, to exercise  
7 the right established pursuant to subsection (a), the incumbent electric  
8 transmission owner having the first right to construct, own, maintain and  
9 upgrade the electric transmission line shall:

10 (A) Provide written notice to the regional transmission organization  
11 and to the state corporation commission to indicate whether the incumbent  
12 electric transmission owner or an affiliate or subsidiary of the incumbent  
13 electric transmission owner intends to exercise such right for all or, if  
14 applicable, a share of the electric transmission line; and

15 (B) notwithstanding the incumbent transmission owner's  
16 responsibility for completion of construction of the transmission line, issue  
17 a request for proposal to solicit competitive bids for construction of the  
18 electric transmission line. Such request for proposal and the associated  
19 evaluation and selection process shall be overseen by an independent  
20 evaluator appointed by the state corporation commission. Nothing in this  
21 subsection shall prohibit the incumbent electric transmission owner from  
22 submitting a bid for the construction of such electric transmission line.

23 (c) If an electric transmission line interconnects or will interconnect  
24 to facilities owned by two or more incumbent electric transmission  
25 owners, the right to construct, upgrade, own and maintain such electric  
26 transmission line shall be determined by mutual agreement between such  
27 incumbent electric transmission owners.

28 (d) Any other electric transmission entity may construct, upgrade,  
29 own and maintain an electric transmission line if:

30 (1) The incumbent electric transmission owner:

31 (A) Does not timely indicate that the incumbent electric transmission  
32 owner intends to exercise such right established pursuant to this section; or

33 (B) is deemed to not be qualified for the construction, upgrade,  
34 ownership or maintenance of the electric transmission line by the regional  
35 transmission organization; and

36 (2) the other electric transmission entity receives all necessary  
37 authorizations or approvals required by the regional transmission  
38 organization for the construction of such transmission line.

39 (e) Nothing in this section shall be construed to affect an incumbent  
40 electric transmission owner's use and control of such incumbent electric  
41 transmission owner's existing property rights, including, but not limited to,  
42 the ability to assign the right established pursuant to subsection (a) or (b).  
43 The retention, modification or transfer of existing property rights

1 described in this section shall remain subject to the relevant state law  
2 recognizing the property right.

3 (f) Nothing in this section shall be construed to affect the right of any  
4 municipally owned or operated utility to construct, upgrade, own and  
5 maintain transmission facilities, substations and controls used to serve load  
6 requirements.

7 (g) As used in this section:

8 (1) "Electric transmission line" means any line or extension of a line  
9 in this state with a rating of greater than 100 kilovolts and any related  
10 transmission facilities, substations and controls.

11 (2) "Incumbent electric transmission owner" means every  
12 corporation, including municipal corporations, company, individual,  
13 association of persons, their trustees, lessees or receivers, that now or  
14 hereafter owns, controls, operates or manages, except for private use, any  
15 equipment or plant, or any part thereof, for the transmission, delivery or  
16 furnishing of electricity in this state. If there are two or more incumbent  
17 electric transmission owners of an electric transmission line, the term  
18 "incumbent electric transmission owner" includes each such owner.

19 (3) "Regional transmission organization" means the organization  
20 authorized by the federal energy regulatory commission to conduct  
21 regional transmission planning and provide notice of requirements for  
22 electric transmission line construction in the region that includes the state  
23 of Kansas.

24 (4) "Transmission plan" means a transmission plan that is adopted by  
25 the regional transmission organization.

26 Sec. 2. This act shall take effect and be in force from and after its  
27 publication in the statute book.